

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA) Docket No. A 12-CR-210(6) DEW
)
vs.) Austin, Texas
)
FRANCISCO ANTONIO)
COLORADO-CESSA) December 1, 2015

TRANSCRIPT OF TRIAL ON THE MERITS
BEFORE THE HONORABLE DONALD E. WALTER
Volume 2 of 9

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08:52:46 1 THE COURT: Good morning. Be seated, please. We're a
08:58:39 2 juror short driving in from Llano, Lampasas; is that right? So
08:58:45 3 let's use this opportunity to go through and do the introduction
08:58:49 4 of the exhibits to which there are no objections. Okay?

08:58:55 5 MS. FERNALD: Good morning, your Honor.
08:58:56 6 Michelle Fernald.

08:58:57 7 THE COURT: Good morning.

08:58:58 8 MS. FERNALD: Your Honor, first, I'd like to go through
08:59:00 9 the business record affidavits with the custodians that I filed a
08:59:03 10 notice on and move to admit those. We don't have, actually, the
08:59:06 11 physical evidence in the courtroom, but at the next break, we'll
08:59:10 12 bring them in. These are the ones that are agreed upon between
08:59:14 13 the government and defend counsel.

08:59:16 14 THE COURT: I assume there will no objections; is that
08:59:18 15 correct, Mr. Flood?

08:59:19 16 MR. CLINE: Sorry, your Honor. John Cline.

08:59:23 17 The overwhelming majority of the exhibits that Ms.
08:59:26 18 Fernald is going to be talking about, we have no objections.

08:59:29 19 THE COURT: Right.

08:59:33 20 MR. CLINE: We've talked about it. We've agreed that
08:59:35 21 they can come in, subject to being stricken later, if that's --

08:59:37 22 THE COURT: Oh, okay. Well, then, we'll be able to do
08:59:41 23 it in a single motion, right?

08:59:43 24 MR. CLINE: I beg your pardon?

08:59:45 25 MS. FERNALD: Yes, your Honor. Do you want me to read

08:59:47 1 in the exhibit numbers or would you like --

08:59:48 2 THE COURT: Why? Why don't you just -- do you have a
08:59:51 3 list?

08:59:51 4 MS. FERNALD: I do, sir.

08:59:52 5 THE COURT: Move its admission.

08:59:53 6 MS. FERNALD: Your Honor, the government's notice for
08:59:55 7 the introduction of business records that were filed yesterday,
08:59:58 8 which would have been November the 30th. I'm sorry, I don't have
09:00:02 9 the docket -- document 945, the government moves to admit those
09:00:07 10 business records as described in the notice.

09:00:10 11 THE COURT: And they are received in evidence without
09:00:14 12 objection, subject to a motion to strike later if it becomes
09:00:20 13 necessary; is that correct?

09:00:22 14 MR. CLINE: That's correct, your Honor.

09:00:23 15 THE COURT: Okay. That's it?

09:00:24 16 MS. FERNALD: No. I've got one more list.

09:00:27 17 THE COURT: Okay. Sure.

09:00:38 18 MS. FERNALD: Your Honor, there was a notice to
09:00:40 19 pre-admit evidence, which was document 9 -- the government's --
09:00:48 20 what was the --

09:00:50 21 MS. WALLACE: Let me look.

09:00:52 22 MS. FERNALD: Thank you, Katherine.

09:01:00 23 MS. WALLACE: 915, the notice and request to pre-admit
09:01:05 24 evidence is document 915.

09:01:08 25 MS. FERNALD: So document 915 was the government's

09:01:09 1 motion to pre-admit evidence. Subsequent to the filing of that
09:01:14 2 motion, the defense has filed an agreed-upon motion in document
09:01:20 3 933 in this court, and has agreed to some of the exhibits be
09:01:25 4 pre-admitted.

09:01:29 5 THE COURT: Without objection?

09:01:31 6 MR. CLINE: Again --

09:01:32 7 THE COURT: Again.

09:01:33 8 MR. CLINE: -- the overwhelming majority of them, we
09:01:35 9 will never have any objection to. There are a handful --

09:01:39 10 THE COURT: That you might well file a motion to
09:01:41 11 strike.

09:01:41 12 MR. CLINE: We'll file a motion to strike if it becomes
09:01:44 13 necessary.

09:01:44 14 THE COURT: All right. Subject to that, they are all
09:01:47 15 received in evidence.

09:01:47 16 MS. FERNALD: Now, that was too easy.

09:01:52 17 THE COURT: That was too easy? Well.

09:01:54 18 MS. FERNALD: Thank you. Thank you so much. I
09:01:58 19 appreciate the cooperation.

09:01:59 20 THE COURT: Anything else?

09:01:59 21 MS. FERNALD: No, sir.

09:02:01 22 THE COURT: All right.

09:03:19 23 We have the jurors present on the record. I am
09:03:27 24 contemplating when the jury comes in saying to them, I remind you
09:03:36 25 that I have instructed you not to read, watch, or listen to

09:03:39 1 anything. I assume all of you have complied with that
09:03:44 2 instruction. Is that correct?

09:03:47 3 MR. CHRIS FLOOD: Sorry, your Honor, I didn't hear you.
09:03:49 4 I apologize.

09:03:50 5 THE COURT: That's okay. I'm thinking of when the jury
09:03:51 6 comes in saying to them, you will remember I've instructed you
09:03:57 7 yesterday that you were not to watch, listen to, or read
09:04:03 8 anything. I assume all of you have complied with that
09:04:05 9 instruction. Is that correct?

09:04:07 10 MR. GARDNER: That's fine, your Honor.

09:04:08 11 MR. CHRIS FLOOD: That's fine, your Honor.

09:04:09 12 THE COURT: Is that a problem? Okay. All right.
09:04:11 13 Bring them in, please. And we're ready for -- tell the marshals
09:04:15 14 we're ready for them.

09:04:19 15 (Jury present.)

09:06:40 16 THE COURT: Good morning, ladies and gentlemen.
09:06:41 17 Appreciate your being so prompt, especially the two of you that
09:06:44 18 have so far to drive. You know the government will put you up if
09:06:49 19 you want to. But I can understand wanting to go home.

09:06:53 20 Okay. You will remember yesterday, I instructed you
09:06:55 21 all to -- not to read, watch, or listen to any news. I assume
09:07:01 22 that you have all obeyed, right? Okay. I will ask you that each
09:07:06 23 morning. It's something the Fifth Circuit wants me to do. All
09:07:09 24 right.

09:07:11 25 Mr. Cuellar, you understand you're still under oath?

09:07:15 1 THE WITNESS: Yes, sir.

09:07:16 2 THE COURT: We left off yesterday with: And the
09:07:25 3 transportation cost that you have to pay when you're talking
09:07:28 4 about the bribes to police and workers and all, all that stuff,
09:07:33 5 that packages into the cost price you say in --

09:07:38 6 MR. GARDNER: Yes, sir.

09:07:38 7 THE COURT: All right. Go ahead.

09:07:39 8 MR. GARDNER: Thank you, your Honor.

09:07:41 9 MARIO ALFONSO CUELLAR, called by the Government, duly sworn.

09:07:41 10 DIRECT EXAMINATION (Resumed)

09:07:41 11 BY MR. GARDNER:

09:07:42 12 Q. Good morning, Mr. Cuellar.

09:07:43 13 A. Good morning, sir.

09:07:44 14 Q. When you get the money back, how much money would you
09:07:59 15 receive on a monthly basis?

09:08:00 16 A. I don't understand the question.

09:08:02 17 Q. You sent the cocaine north to the United States and you get
09:08:07 18 money back from the sale of that cocaine, correct?

09:08:14 19 A. Yes, sir. Uh-huh.

09:08:16 20 Q. And how much would you get back per month? How much money?

09:08:34 21 A. It would depend on the amounts. If it was 2 million a
09:08:38 22 month, I will get three percent. If it was 20 million a month,
09:08:41 23 it will be three percent. It would depend partially on the cost
09:08:45 24 of transporting the money back to Mexico.

09:08:48 25 Q. And money that you had to turn into the organization, would

09:08:52 1 you clean that money beforehand?

09:08:58 2 A. Yes, sir.

09:08:58 3 Q. And how would you do that?

09:09:10 4 A. Pulling out the ones, the fives, the tens, the ones that are
09:09:14 5 torn, the ones that have been written on, and the ones that are
09:09:17 6 fake.

09:09:17 7 Q. Okay. Why would you do that?

09:09:29 8 A. Because in Columbia, they wouldn't take lower denomination
09:09:34 9 bills, they wouldn't take them if they were written on or ripped.

09:09:39 10 Q. What would you do with the ones that are written on or
09:09:43 11 ripped? What do you do with them?

09:09:54 12 A. That was the money we used to pay the people that crossed
09:09:56 13 the drugs or crossed the river with the drugs.

09:09:59 14 Q. Sort of their salary, if you will?

09:10:12 15 A. I paid them 300 per kilo of cocaine and 50 per kilo for
09:10:17 16 marihuana.

09:10:17 17 Q. And so that clean money, the 20s, the 50s, the 100s, what
09:10:22 18 would you do with that?

09:10:32 19 A. We would give it -- deliver it to the accountants for Miguel
09:10:37 20 and Omar, for "40," "42."

09:10:39 21 Q. Would you do that personally, or would you have a worker do
09:10:41 22 that for you?

09:10:51 23 A. In the beginning, I did it and then, afterwards, Hector and
09:10:55 24 two other -- two or three other people of mine did it.

09:10:58 25 Q. And Hector is Hector Moreno?

09:11:01 1 A. Yes, sir.

09:11:01 2 Q. And what was his role?

09:11:07 3 A. Was my partner and my right-hand man.

09:11:11 4 Q. And the jury's already heard from Jose Vasquez, Sr., but

09:11:15 5 what was -- or Jr., rather. What was his role?

09:11:27 6 A. Who? Hector?

09:11:28 7 Q. No. I'm sorry. Jose Vasquez, Jr.?

09:11:38 8 A. Oh, he was the one that bought the large amounts of cocaine

09:11:41 9 in Dallas.

09:11:42 10 Q. And was he also a member of the Zeta organization?

09:11:50 11 A. He would buy -- I guess you could say yes because he bought

09:11:56 12 Zeta cocaine.

09:11:56 13 Q. Would you characterize him, based on that answer, more as a

09:11:59 14 customer than a member?

09:12:09 15 A. Yes.

09:12:10 16 Q. And one thing I forgot to ask you when you first got on the

09:12:13 17 stand. Do you have a nickname?

09:12:21 18 A. Yes, sir.

09:12:22 19 Q. And what is it?

09:12:24 20 A. Poncho.

09:12:25 21 Q. Is that P-O-N-C-H-O?

09:12:29 22 A. Yes, sir.

09:12:29 23 Q. Is that short for Alfonso?

09:12:32 24 A. Yes, sir.

09:12:32 25 Q. So going back to the money, when you would take the money,

09:12:37 1 the clean money, where would you physically take it?

09:12:51 2 A. To "40" and "42's" accountants, to Miguel or Omar's

09:12:59 3 accountant.

09:12:59 4 Q. Do you remember his name?

09:13:00 5 A. One of them, yes, "Cuno."

09:13:02 6 Q. "Cuno"?

09:13:03 7 A. Yes, sir.

09:13:04 8 Q. And when you delivered the money, did you deliver or did you

09:13:08 9 see any other amounts to the location where you delivered the

09:13:12 10 money that you owed to the Zetas?

09:13:22 11 A. Yes, sir.

09:13:23 12 Q. And how much was that?

09:13:29 13 A. Twenty, 30, 40, \$50 million.

09:13:32 14 Q. And was that on just one occasion or a couple of occasions?

09:13:39 15 A. Four or five times.

09:13:41 16 Q. So every time you would deliver your share or your due, if

09:13:45 17 you will, you received additional amounts of currency at "Cuno's"

09:13:52 18 location?

09:14:02 19 A. Always.

09:14:02 20 Q. How did you keep track of the money that you owed and the

09:14:07 21 money you got to keep?

09:14:32 22 A. As per "42," Omar Trevino's orders, I was given 500 kilos

09:14:43 23 and that would be noted by the accountant, then as it crossed

09:14:47 24 over, I would be sending the money back to the accountant. He

09:14:50 25 would do the accounting, be taking -- maintaining a record of it.

09:14:56 1 And Hector also did all the accounting and maintained records of
09:15:01 2 it.

09:15:01 3 Q. So when you say the accountant took -- "40," "42's"
09:15:05 4 accountant kept a record of it, have you seen that record that he
09:15:08 5 was keeping?

09:15:17 6 A. Many times, I saw how he kept it.

09:15:19 7 Q. And how would he make an entry, say, for example, "42" gave
09:15:27 8 Poncho 500 keys? How would that entry be made?

09:15:44 9 A. He had a ledger for each person and besides that, he had his
09:15:47 10 laptop, and he kept an accounting of all of that in his laptop.

09:15:52 11 Q. And did you see what names he would use beside each account
09:15:57 12 or beside each customer or you? Did he use your name?

09:16:30 13 A. Yeah. My name would be at the top, it says on X date, I
09:16:34 14 delivered 500 kilos to Poncho Cuellar. He has paid me \$8
09:16:39 15 million. He has spent money on warehouses, crossing it over,
09:16:44 16 taking it up, bringing it back, and all of that is deducted from
09:16:48 17 the money that's owed.

09:16:49 18 Q. And so, when the money came back, do you know how it was
09:16:52 19 distributed? Once you give the money to "Cuno," do you know how
09:16:56 20 it was distributed to the leadership of the Zetas?

09:17:05 21 A. Yes, sir.

09:17:06 22 Q. And how was that?

09:17:17 23 A. Much of it went to the company. That's what they called the
09:17:21 24 Zetas. And then, another part went to "40" and "42," Miguel and
09:17:25 25 Omar.

09:17:28 1 Q. I want to turn your attention now to quarter horses. Do you
09:17:35 2 know anything about quarter horse racing?

09:17:40 3 A. A lot.

09:17:41 4 Q. Okay. And how do you know a lot about horse racing?

09:17:50 5 A. I started in '99 having my own racehorses.

09:17:55 6 Q. And did you race those horses in Mexico or in the United
09:18:03 7 States?

09:18:03 8 A. Both.

09:18:04 9 Q. And starting in '99, roughly, how many horses did you have
09:18:12 10 at any one time?

09:18:14 11 A. I started having four.

09:18:22 12 Q. And so, by the time you became involved with the Zetas, how
09:18:27 13 many horses did you have?

09:18:32 14 A. Twenty to 25.

09:18:34 15 Q. And when you would buy a horse, what would you look for in
09:18:36 16 terms of the quality of a horse?

09:18:50 17 A. Its former shape, the size, who the mother was, who the
09:18:59 18 father was, who the other siblings were, how they performed.

09:19:05 19 Q. So you would look at the bloodlines?

09:19:11 20 A. Yes, sir.

09:19:12 21 Q. So if like the mother performed really well in a race, would
09:19:16 22 that give you an indication that the offspring might also perform
09:19:19 23 equally, as well?

09:19:34 24 A. Sometimes yes, if they were like one of the first of the
09:19:47 25 line, but a lot of times, what you did is the mares, they have

09:19:51 1 offspring and you look at the males and you look how they've run,
09:19:55 2 and if the three out of five times they've run 90 to 100 over
09:20:00 3 speed limit, those are the ones you buy.

09:20:02 4 Q. And when you say speed limit, there's a speed index in the
09:20:05 5 quarter horse industry that lets you know how fast the horse
09:20:08 6 runs.

09:20:08 7 A. Yes.

09:20:09 8 Q. You mentioned earlier an individual when you first met by
09:20:14 9 the name of "Mamito." Do you recall that testimony yesterday?

09:20:19 10 THE INTERPRETER: May the interpreter have the
09:20:22 11 repetition?

09:20:22 12 Q. (BY MR. GARDNER) Do you remember an individual by the name
09:20:24 13 of "Mamito" that you testified to yesterday?

09:20:29 14 A. Yes, sir.

09:20:30 15 Q. May I approach, your Honor?

09:20:32 16 THE COURT: You may.

09:20:33 17 Q. (BY MR. GARDNER) I'm going to show you 250U. And while I'm
09:20:37 18 up here, I'm going to show you 250N, 250Q and 250W. Do you
09:20:47 19 recognize 250U?

09:20:50 20 A. Yes.

09:20:52 21 Q. All right. Tell me right now if you recognize them, and
09:20:55 22 we'll talk about them in a second. Do you recognize 250Q?

09:21:03 23 A. I can't see.

09:21:06 24 THE COURT: Can y'all hear Mr. Gardner, jury? Raise
09:21:11 25 your voice, please, Mr. Gardner.

09:21:13 1 MR. GARDNER: Thank you, your Honor. I apologize. I
09:21:14 2 wasn't near a microphone.

09:21:19 3 A. Him, no.

09:21:21 4 Q. (BY MR. GARDNER) 250N?

09:21:23 5 A. Yes.

09:21:23 6 Q. And then, 250W.

09:21:35 7 A. No, sir.

09:21:36 8 Q. Your Honor, at this time, I would offer 250U.

09:21:53 9 MR. CHRIS FLOOD: No objection, your Honor.

09:21:54 10 THE COURT: 250U's received without objection.

09:21:59 11 Q. (BY MR. GARDNER) Pull 250U, please, Marisol.

09:22:08 12 And, Mr. Cuellar, who is this individual?

09:22:14 13 A. That's Zeta 7, it's "Mamito" or Caballero.

09:22:20 14 Q. And what was his role in the --

09:22:22 15 A. Enrique.

09:22:22 16 Q. I'm sorry. What was his role in the organization?

09:22:27 17 A. He was one of the leaders.

09:22:28 18 Q. And so, when you talked about getting involved in the
09:22:33 19 quarter horse business, was "Mamito" involved in the quarter
09:22:37 20 horse racing?

09:22:44 21 A. Yes, sir.

09:22:45 22 Q. And when did he become involved in quarter horses?

09:22:57 23 A. When I met him, he was already involved in the quarter horse
09:23:01 24 races.

09:23:04 25 Q. And when you met "Mamito," did you know "40," Miguel

09:23:09 1 Trevino, or "42," Omar Trevino, was involved in quarter horses?

09:23:25 2 A. They were not involved.

09:23:26 3 Q. Okay. When did they become involved in quarter horses?

09:23:36 4 A. When I met them within six or eight months, 2008 maybe 2007,
09:23:42 5 2008.

09:23:43 6 Q. Does "Mamito" have a number, a Zeta number?

09:23:51 7 A. No. 7.

09:23:53 8 Q. So Z-7. So these horses that you would buy, where would you
09:24:02 9 buy them from?

09:24:08 10 A. At the Oklahoma or Ruidoso auctions and on certain
09:24:17 11 occasions, directly from the ranchers.

09:24:21 12 Q. So the auctions were -- and we've heard testimony of this
09:24:25 13 yesterday. The auctions are public auctions, correct?

09:24:33 14 A. Yes, sir.

09:24:33 15 Q. And when you say from the ranches, would that be a private
09:24:37 16 sale between a person who owns a horse and you, for example?

09:24:42 17 A. Yes, sir.

09:24:48 18 Q. So on the auctions, would you attend these auctions
09:24:50 19 yourself?

09:24:56 20 A. In the beginning, yes.

09:24:58 21 Q. And would you buy horses under your own name in the
09:25:01 22 beginning?

09:25:06 23 A. Yes. Not all of them but some of them, yes.

09:25:12 24 Q. So moving on to later when you were in Mexico, did you buy
09:25:16 25 horses from the auctions in the United States?

09:25:24 1 A. Yes, sir.

09:25:25 2 Q. And how did you do that?

09:25:35 3 A. We bought them through other people, or Carlitos handled
09:25:41 4 buying them, paying for them, Nayen.

09:25:44 5 Q. Could we bring up 250E, please?

09:25:52 6 And when you say Carlitos Nayen, I'm showing you
09:25:57 7 Government's Exhibit 250E, is that the individual you know as
09:26:00 8 Carlos Nayen?

09:26:00 9 A. Yes, sir.

09:26:01 10 Q. So how would you pick horses for Mr. Nayen to purchase?

09:26:09 11 A. Many of them, Ramiro Villarreal selected, the photograph you
09:26:19 12 showed me.

09:26:20 13 Q. So let's get to that one. Your Honor, I've showed the
09:26:23 14 witness 250N. I'd offer 250N.

09:26:26 15 MR. CHRIS FLOOD: No objection, your Honor.

09:26:27 16 THE COURT: Without objection, it is received.

09:26:30 17 Q. (BY MR. GARDNER) Can you please show 250N for me, please?
09:26:34 18 And is this the individual you identified as Ramiro Villarreal?

09:26:39 19 A. Yes, sir.

09:26:42 20 Q. All right. So how would he go about purchasing horses that
09:26:48 21 you wanted?

09:27:02 22 A. He would buy horses for anybody. He would charge you a fee,
09:27:06 23 a thousand, 2,000, sometimes up to 5,000.

09:27:10 24 Q. And did he also buy horses for "Mamito" and "40" and "42"?

09:27:18 25 A. Yes, sir.

09:27:22 1 Q. And so, how would you get him, Ramiro, how would you give
09:27:28 2 Ramiro Villarreal the money for the horses?

09:27:39 3 A. The majority of the money was handed to Carlitos, and
09:27:51 4 Carlitos was the one who handled getting it up here. I don't
09:27:54 5 have any idea. I have an idea of how it was done, but I don't
09:27:58 6 know for certain.

09:27:58 7 Q. Okay. That's fine. Let me go back to Ramiro for a second.
09:28:02 8 Do you know when he began buying horses for "40" and
09:28:06 9 "42"?

09:28:12 10 A. 2009.

09:28:14 11 Q. And I think you answered the question, but do you know how
09:28:24 12 "40" and "42" got Ramiro the money to buy those horses?

09:28:30 13 MR. CHRIS FLOOD: Objection, your Honor. I'm going to
09:28:31 14 have to object to hearsay.

09:28:34 15 MR. GARDNER: I was asking if he knew, your Honor.

09:28:36 16 THE COURT: Question is, do you know? Yeah. So I'll
09:28:43 17 overrule. You may answer that question.

09:28:51 18 A. Yes, sir.

09:28:52 19 Q. (BY MR. GARDNER) And how do you know?

09:28:53 20 THE COURT: How do you know?

09:28:59 21 A. Because I was present when the amounts of money were sent.

09:29:03 22 Q. (BY MR. GARDNER) And so, when you were present, what was
09:29:07 23 said by "40" or "42" with respect to the money sent to Ramiro?

09:29:22 24 A. That the money should be sent to Ramiro so that he could pay
09:29:31 25 for the horses, that Ramiro had people in Monterrey that would

09:29:35 1 help him pay for the horses. I don't know who the people in
09:29:37 2 Monterrey were.

09:29:38 3 Q. Was all the money that you, "Mamito," "40," and "42" sent
09:29:45 4 come from drugs -- the sale of drugs?

09:29:53 5 A. Of course.

09:29:55 6 Q. I want to talk to you about one specific horse right now.
09:29:59 7 Are you familiar with a horse called Tempting Dash?

09:30:06 8 A. Yes, sir.

09:30:07 9 Q. And how were you familiar with that horse?

09:30:17 10 A. Because Ramiro had bought that horse very cheap. The price
09:30:39 11 was somewhere between 27 and 35,000. And I don't know if I'm
09:30:45 12 pronouncing it correctly because it was one of Freedom Dash's,
09:30:48 13 and to be able to buy a colt from that horse, you would pay at
09:30:53 14 least \$30,000.

09:30:56 15 Q. You said Freedom Dash. If I were to give you the stallion
09:30:59 16 First Down Dash, would that be something that would jog your
09:31:04 17 memory?

09:31:08 18 A. Yes. Correct.

09:31:10 19 Q. And whose horse was this?

09:31:16 20 A. That's a very famous horse here in the United States, the
09:31:20 21 sire.

09:31:21 22 Q. Correct. I'm sorry. My question wasn't a good question.
09:31:25 23 Tempting Dash, you said Ramiro Villarreal bought that
09:31:30 24 horse.

09:31:35 25 A. Yes. Bought it for "40."

09:31:38 1 Q. So was "40" the owner of that horse?

09:31:40 2 A. Yes, sir.

09:31:40 3 Q. Do you know what "40" did with that horse?

09:31:48 4 A. That horse first came to my stables, then it was sent to
09:32:02 5 Monterrey so that Arnulfo Cantu, one of the best quarter -- or
09:32:07 6 the best quarter horse trainer in Mexico could train it. And the
09:32:12 7 name is Arnulfo Guajardo, sorry.

09:32:15 8 Q. And did that horse eventually come to the United States?

09:32:18 9 A. Yes. For surgery.

09:32:23 10 Q. And did that horse race in the United States?

09:32:26 11 A. Yes, sir.

09:32:28 12 Q. And under whose name did it race?

09:32:34 13 A. Ramiro's.

09:32:35 14 Q. And when it won or did it -- I guess the question is, do you
09:32:40 15 know if it won any races in the United States?

09:32:45 16 A. Yes.

09:32:46 17 Q. And after winning some race, at some point, did the name get
09:32:50 18 transferred out of Ramiro's name to someone else?

09:33:00 19 A. Yes, sir.

09:33:00 20 Q. And who was that?

09:33:02 21 A. Jose Trevino.

09:33:04 22 Q. May I have 250C, I believe? Have you met this gentleman?

09:33:16 23 A. Yes, sir.

09:33:16 24 Q. On how many occasions?

09:33:22 25 A. Saw him many times in Mexico.

09:33:24 1 Q. And were you present in a conversation when "40" explained
09:33:30 2 why he put that horse in his brother's name?

09:33:40 3 A. Yes.

09:33:42 4 Q. And what did "40" say about putting that horse in his
09:33:45 5 brother's name?

09:33:51 6 A. And it was "42," not "40," who asked me -- asked me what
09:34:18 7 could be done to put the horse in Jose's name. And I said if
09:34:24 8 it's Tempting Dash, you transfer him, you sell it. To transfer
09:34:28 9 him, you have to sell him and you sell him -- you make the sale
09:34:31 10 before he wins the race.

09:34:35 11 Q. So let me get this straight. So Ramiro Villarreal is the
09:34:39 12 owner when it wins its first race.

09:34:49 13 A. It was in his name, but he wasn't the owner.

09:34:53 14 Q. Who was the owner?

09:34:56 15 A. Forty.

09:34:57 16 Q. And so, then, if I hear your testimony right, that horse was
09:35:02 17 -- I'll use this word -- sold to Jose Trevino?

09:35:08 18 A. Yes.

09:35:13 19 Q. Okay. Was that a real sale?

09:35:17 20 A. No.

09:35:19 21 Q. And so, what happened after Jose Trevino becomes the listed
09:35:24 22 owner of that horse?

09:35:33 23 A. The IRS, it was good because the horse had been sold at a
09:35:45 24 price -- not a very expensive price, and Jose could show the
09:35:49 25 \$30,000. And so, then, when the IRS would look at it, the horse

09:36:02 1 had won half a million dollars, so the money was clean.

09:36:05 2 Q. When you say half a million dollars, did that come from the
09:36:09 3 purse of winning the race?

09:36:16 4 A. A futurity.

09:36:18 5 Q. A horse race, correct?

09:36:21 6 A. Yes.

09:36:23 7 Q. May I have 250E? Now, you mentioned this individual
09:36:30 8 earlier, Carlos Nayen. How did you first come to know Carlos
09:36:33 9 Nayen?

09:36:41 10 A. At the horse races.

09:36:43 11 Q. In Mexico or in the United States?

09:36:46 12 A. Mexico.

09:36:49 13 Q. Do you recall at least a year when you first met him at the
09:36:54 14 horse races?

09:37:01 15 A. Yeah. I met him before I met "40" and "42." I met him at
09:37:09 16 an event in Morelos, Coahuila at a horse race. Seems like I had
09:37:19 17 already seen him here at Retama, but I don't have a memory of
09:37:24 18 that. Didn't talk to him.

09:37:27 19 Q. Do you know an individual by the name of Efrain Torres, Zeta
09:37:34 20 14?

09:37:35 21 A. Huh-uh. No.

09:37:42 22 Q. And when did you first see Carlos Nayen meet with "40" and
09:37:50 23 "42"?

09:38:01 24 A. It was some races, but I don't remember the year exactly.
09:38:10 25 2008 maybe.

09:38:14 1 Q. And at some point, did Carlos Nayan begin to be involved in
09:38:18 2 purchasing horses for "40" and "42"?

09:38:25 3 A. Yes.

09:38:27 4 Q. When do you recall that being started?

09:38:37 5 A. 2009, 2010. Those were the years -- those were his
09:38:42 6 strongest years.

09:38:43 7 Q. "His" being Carlos Nayan's?

09:38:47 8 A. Yes, sir.

09:38:48 9 Q. How many meetings would you say you were present when Carlos
09:38:52 10 Nayan was talking to "40" or "42" or "Mamito" about horses?

09:39:05 11 A. Some 30.

09:39:07 12 Q. And how would you Carlos Nayan physically get to meet with
09:39:11 13 "40"?

09:39:12 14 A. Many times, he would show up with me. I would call "42."
09:39:40 15 I'd sent him a text, and I'd say he's already arrived, where do
09:39:44 16 you want a meeting? And "42" responded saying, wait until I call
09:39:48 17 you back. There were times he would -- he left with me two or
09:39:58 18 three days, and then, they'd call and say, bring him now. Now,
09:40:02 19 yes.

09:40:04 20 Q. So would Carlos perform the same role as Ramiro in buying
09:40:11 21 horses in the United States for "40" and "42"?

09:40:23 22 A. Yes.

09:40:24 23 Q. So would Carlos Nayan attend the auctions in the United
09:40:31 24 States?

09:40:31 25 A. Yes.

09:40:31 1 Q. Would "40" ever -- or was "40" ever able to watch these
09:40:37 2 auctions himself while in Mexico?

09:40:40 3 A. Yes. Yes.

09:40:45 4 Q. And how would he do that?

09:40:58 5 A. Through Hector, he would link up -- or he would go straight
09:41:01 6 into the computer, and then, you could see when they would parade
09:41:05 7 the colts.

09:41:07 8 Q. And did you ever observe Carlos Nayen communicating with
09:41:11 9 "40" while he was at the auction in the United States and "40"
09:41:16 10 was in Mexico?

09:41:25 11 A. Many times.

09:41:28 12 Q. Do you remember any specific horses he tried to buy?

09:41:41 13 A. They changed the names for most of them to car names like
09:41:56 14 Lamborghini, Ferrari, Bugatti. I don't know the original names
09:41:59 15 at the auctions.

09:42:01 16 Q. And you said Mr. Nayen became involved heavily in 2009,
09:42:06 17 2010. Do you remember how many horses approximately the
09:42:10 18 organization bought in 2009?

09:42:26 19 A. This came from "40" personally. He said the first year,
09:42:36 20 they had spent about \$2 million that was 2008. The second year,
09:42:42 21 five, and the third year, they were going on seven.

09:42:45 22 Q. 2008, two million; 2009, five million, and; 2010, seven
09:42:53 23 million?

09:42:54 24 A. Yes, sir.

09:42:55 25 Q. Okay. And when did you come to the United States?

09:43:01 1 A. 2011.

09:43:04 2 Q. Do you know how "40" would get the money to pay for the
09:43:10 3 horses into the United States?

09:43:19 4 MR. CHRIS FLOOD: Objection, your Honor. Lack of
09:43:20 5 personal knowledge.

09:43:22 6 THE COURT: Well, the question is, do you know. Yes,
09:43:24 7 no, or don't know.

09:43:29 8 A. Yes. Sometimes.

09:43:30 9 Q. (BY MR. GARDNER) Okay. On those occasions where you did
09:43:32 10 know, how did "40" get his drug money into the United States to
09:43:38 11 pay for horses?

09:43:39 12 MR. CHRIS FLOOD: Objection, your Honor. Lack of
09:43:40 13 personal knowledge. He hadn't said --

09:43:42 14 THE COURT: How do you know that?

09:43:46 15 THE WITNESS: Because a lot of it, I paid.

09:43:49 16 THE COURT: Proceed. Overruled.

09:43:51 17 Q. (BY MR. GARDNER) On those occasions that you paid, how would
09:43:55 18 the money flow from "40" or "42" to get to the auction houses in
09:44:00 19 the United States?

09:44:17 20 A. I don't know how it was paid at the auction houses, but I
09:44:21 21 tell "Junior" to deliver it to Carlitos so it could be taken to
09:44:25 22 the auctions. And I was being told, this money is to pay for
09:44:32 23 this horse or this mare, and you need to write that down in your
09:44:38 24 notes.

09:44:39 25 Q. In your ledger to keep track?

09:44:42 1 A. Yes, sir.

09:44:45 2 Q. So among those payments, were you ever requested to send
09:44:50 3 payments to the Ruidoso track in New Mexico?

09:45:04 4 A. Yes, sir.

09:45:06 5 Q. For what purpose was that money sent there for?

09:45:11 6 MR. CHRIS FLOOD: Objection, your Honor. Lack of
09:45:13 7 personal knowledge.

09:45:13 8 MR. GARDNER: I'll rephrase, your Honor.

09:45:14 9 THE COURT: All right.

09:45:15 10 Q. (BY MR. GARDNER) Were you ever asked to send money to the
09:45:19 11 Ruidoso racetrack?

09:45:24 12 A. Yes, sir.

09:45:25 13 Q. Were you told the reason why you were sending the money to
09:45:29 14 the Ruidoso racetrack?

09:45:36 15 A. I knew exactly what it was for from the beginning.

09:45:40 16 Q. Okay. And who told you that?

09:45:42 17 A. "Forty" and "42." We had a meeting and that's where we
09:45:51 18 talked about that matter. And Carlos sent a message saying they
09:46:01 19 had already had the people that were going to release the horses
09:46:05 20 in their pocket paying them 3,000 each one.

09:46:09 21 Q. So how much money did you send to Ruidoso yourself?

09:46:19 22 A. I don't remember exactly. It was between 100 and 120.

09:46:23 23 Q. And when you say the starters, are you familiar with the All
09:46:29 24 American Futurity race in Ruidoso?

09:46:33 25 A. Yes. It's the biggest one here in the United States for

09:46:46 1 quarter horses.

09:46:47 2 Q. And are you familiar with a horse called Mr. Piloto?

09:46:53 3 A. Mr. Piloto, yes.

09:46:56 4 Q. And who was the owner of Mr. Piloto?

09:47:00 5 A. "Forty."

09:47:02 6 Q. And who was the listed owner of Mr. Piloto for that race?

09:47:17 7 A. Seems like Jose, Jose Trevino, but I don't remember whose
09:47:21 8 name it was in.

09:47:22 9 Q. And did Mr. Piloto win that race?

09:47:27 10 A. With trickery, yes.

09:47:30 11 Q. Okay. And when you say with trick, does that refer to the
09:47:33 12 money that was sent to the starters?

09:47:38 13 A. Yes, sir.

09:47:43 14 Q. All right. Now, being involved in the horseracing business
09:47:46 15 yourself, how does a starter -- how can a starter affect a race?

09:48:03 16 A. Because a majority of the horses, we call it the bit strap.
09:48:20 17 It's a strap that's on their face, and you hold them by that
09:48:25 18 until the door opens and then, they're released.

09:48:28 19 Q. And what effect does that have on the race if you hold the
09:48:31 20 horse?

09:48:40 21 A. Just the minute part of a second that you hold him back, the
09:48:48 22 other horse can take very -- several body -- a lead of several
09:48:54 23 body lengths, which was the case with Mr. Piloto.

09:49:00 24 Q. How did you come to be arrested, Mr. Cuellar?

09:49:06 25 A. I turned myself in.

09:49:08 1 Q. And why was that?

09:49:24 2 A. 2011, I started seeing some strange things with regard to
09:49:39 3 "40" towards me. He started taking drugs away from me that I had
09:49:43 4 stored, a warehouse, 590 kilos. He started buying -- taking
09:49:49 5 money from me to buy houses for "42," which I didn't think was
09:49:52 6 right. This is wrong. And "40" and "42's" people also let me
09:50:03 7 know that there was a problem with me. I asked why, I was told
09:50:11 8 they didn't know.

09:50:13 9 Q. And so, why did you decide to turn yourself in to the United
09:50:20 10 States?

09:50:20 11 A. Because I already said that things were strange, things were
09:50:51 12 being taken away with me, taken away from me, that means you were
09:50:54 13 going to be killed. "Forty" said that I should meet him at a
09:51:00 14 horse race. I didn't go. I sent my people. People were sent
09:51:05 15 there to pick me up, then they got there cursing and everything
09:51:10 16 else, and that's when I realized that there was a problem. And
09:51:24 17 that's when I decided that I was going to cross the border, that
09:51:28 18 I was going to walk across. That I was going to walk and come
09:51:31 19 into the United States.

09:51:32 20 Q. Did you contact an attorney, a defense attorney here in the
09:51:38 21 United States?

09:51:38 22 A. Yes, sir.

09:51:39 23 Q. Has he guided you through this process?

09:51:44 24 A. Yes, sir.

09:51:45 25 Q. And when you came across the United States, did you tell

09:51:49 1 others to come across with you?

09:51:55 2 A. All my people.

09:51:58 3 Q. And when you say all your people, is that Mr. Moreno?

09:52:09 4 A. Moreno, Jr., Wicho, Jose Luis Garza, Victor, a lot of them.

09:52:23 5 All the people that worked for me.

09:52:25 6 Q. And did some of those come across and some stay?

09:52:31 7 A. Yes.

09:52:31 8 Q. And do you know what happened to those who stayed behind?

09:52:37 9 A. They were killed.

09:52:40 10 Q. Now, I want to go back a little bit to the money made by the

09:52:48 11 Zetas. Did "40," "42" and "Mamito" take steps to conceal their

09:52:58 12 drug activity from law enforcement?

09:53:08 13 A. No. Well, some of them, yes, but not for the majority.

09:53:18 14 Q. And was that because majority of the police in Mexico had

09:53:22 15 been bribed by the Zetas?

09:53:28 16 A. Oh, yes.

09:53:31 17 Q. With that money, did you help personally "40" or "42," I'll

09:53:37 18 use the word, invest their drug proceeds?

09:53:54 19 A. Uh-huh. With the police?

09:53:56 20 Q. No. I'm sorry.

09:53:59 21 So the Zetas have all this cash, correct?

09:54:04 22 A. Yes.

09:54:05 23 Q. Did they attempt to convert that cash into legitimate

09:54:10 24 businesses?

09:54:15 25 A. Yes, sir.

09:54:16 1 Q. And did you help them on certain occasions with investing
09:54:21 2 their drug proceeds in legitimate businesses?

09:54:29 3 A. Yes, sir.

09:54:30 4 Q. All right. If you will, could you tell the jury some of
09:54:33 5 those occasions and how much money you invested for the Zeta
09:54:37 6 leadership?

09:54:39 7 A. For "42," I bought some heavy equipment, some machinery,
09:55:05 8 some caterpillars D-9s and B-10s, more than a million dollars. I
09:55:13 9 got one of his companies to be working in coal. It was in his
09:55:18 10 wife's name.

09:55:20 11 Q. You say coal like coal mining or --

09:55:23 12 A. Yes, sir.

09:55:26 13 Q. And why did he put it in his wife's name, if you know?

09:55:34 14 A. Because he couldn't have anything in his name.

09:55:38 15 Q. Does any of the Zeta leadership have any businesses in their
09:55:42 16 name?

09:55:47 17 A. No.

09:55:48 18 Q. And so, you said coal company and construction equipment.
09:55:53 19 What was the construction equipment used for?

09:56:07 20 A. The majority of it was for building roads and highways.
09:56:23 21 Clearing land, rented it also, and the same thing in the coal
09:56:29 22 business.

09:56:29 23 Q. And when we talked last time, you had mentioned something
09:56:34 24 about money going to a racetrack. Do you recall that?

09:56:43 25 A. In Laredo. More than half a million was used to build the

09:56:55 1 racetrack.

09:56:56 2 Q. So when you get this cash, do you take it straight and
09:57:02 3 invest it in a company? Or how do you get the flow of the money
09:57:05 4 from your cash to investing in these businesses?

09:57:24 5 A. Through people that could spend that kind of money.

09:57:26 6 Q. And what kind of people were those?

09:57:29 7 A. Rich people.

09:57:32 8 Q. Do you know Francisco Colorado-Cessa?

09:57:37 9 A. Yes, sir.

09:57:38 10 Q. How many times have you met him?

09:57:41 11 A. Maybe twice.

09:57:44 12 Q. And during the time that you were involved with the Zetas,
09:57:47 13 did you hear "40" or "42" talk about Pancho Colorado?

09:57:57 14 MR. CHRIS FLOOD: Objection. Hearsay, your Honor.

09:57:59 15 THE COURT: Overruled.

09:58:02 16 A. Many times.

09:58:03 17 Q. (BY MR. GARDNER) And did you hear Carlos Nayan talk about
09:58:07 18 Pancho Colorado?

09:58:09 19 A. Yes, because he would call the man dad.

09:58:16 20 MR. CHRIS FLOOD: Objection. Nonresponsive.

09:58:24 21 MR. GARDNER: I can ask a followup question, your
09:58:26 22 Honor.

09:58:26 23 THE COURT: All right. Do that.

09:58:28 24 Q. (BY MR. GARDNER) What would you hear Carlos Nayan refer to
09:58:34 25 Francisco Colorado as?

09:58:48 1 A. Because he said that he would have been his dad, that he
09:59:04 2 loved him a lot. That I would ask him why, he would kid around
09:59:07 3 saying things about his mom that we knew weren't true, that she
09:59:11 4 had been with him. But I think he was raised with him for quite
09:59:16 5 some time.

09:59:16 6 Q. Now, on an earlier occasion, I asked you to identify Mr.
09:59:21 7 Colorado and you couldn't. Can you explain why you earlier
09:59:25 8 couldn't identify Mr. Colorado?

09:59:38 9 A. Because when I met him, he had a hat on, like a cowboy hat,
09:59:50 10 like the people from the north do, and here, he was different. I
09:59:55 11 saw his hair this time.

09:59:58 12 Q. And the other two occasions, he had the hat on the entire
10:00:01 13 time?

10:00:04 14 A. Yes, sir.

10:00:05 15 Q. I'd like to talk about those two occasions. When did you
10:00:09 16 first meet Colorado-Cessa?

10:00:24 17 A. He was introduced to me at an event we organized in Morelos,
10:00:33 18 Coahila at a colt race, and the other time, I just saw him. I
10:00:41 19 wasn't there present with him.

10:00:44 20 Q. Let's talk about the first time. Was this at a horse race
10:00:47 21 in Morelos?

10:00:53 22 A. Yes.

10:00:53 23 Q. And how was he introduced to you?

10:00:59 24 A. "Forty" yelled out to me -- said, Poncho, come here, let me
10:01:07 25 introduce Pancho Colorado. He said, have you already met him? I

10:01:15 1 said I had seen him. And I greeted the man. I greeted him.

10:01:32 2 And, yeah, we said hello, hello, and then, he went on, continued

10:01:36 3 talking to "40" and "42," the races started, I stepped back.

10:01:41 4 Q. So this one race -- let's focus on one race in Morelos. Was

10:01:48 5 that a private race or a public race?

10:01:58 6 A. Clandestine.

10:02:00 7 Q. And were only members of the Zeta organization present?

10:02:09 8 A. The majority. Ninety percent. Yes.

10:02:14 9 Q. And so, the other ten percent, who were they?

10:02:32 10 A. There are people -- Mr. Pancho was there, other owners of

10:02:42 11 other colts, but they didn't gather where "40" and "42" were.

10:02:45 12 They were on the other side in some bleachers. And then, also

10:02:48 13 saw the jockeys and the trainers.

10:02:50 14 Q. And so, these other owners, was Pancho with the other owners

10:02:55 15 or was he with "40"?

10:03:01 16 A. "Forty" and "42."

10:03:03 17 Q. Okay. You said "40" and "42." Who else was there -- sorry.

10:03:11 18 That was a bad question.

10:03:12 19 Who else from the Zeta leadership was there?

10:03:25 20 A. I don't remember if "Mamito" was there, but I believe he

10:03:44 21 was -- 2000 was there. There were a lot of other people.

10:03:48 22 "Mamito" was there. There were many of us, some 20 or 30,

10:03:51 23 besides all the ones that were surrounding it.

10:03:54 24 Q. When you say surrounding it, were you referring to armed

10:03:57 25 guards or security?

10:04:07 1 A. Yes.

10:04:08 2 Q. Did you see Pancho Colorado with any of his own security?

10:04:15 3 A. No.

10:04:18 4 Q. And so, these races, how long did this event occur? How

10:04:22 5 many hours?

10:04:29 6 A. Some three or four hours.

10:04:30 7 Q. How many races were there?

10:04:36 8 A. From four to eight.

10:04:38 9 Q. Did you have any horses running?

10:04:42 10 A. Four of them.

10:04:45 11 Q. And did you see that Pancho Colorado had any horses running

10:04:50 12 in this race?

10:04:55 13 A. Carlitos took some horses, but I don't know if they belonged

10:05:04 14 to him. He took a maroon and some other horses, but I don't know

10:05:08 15 if they were his.

10:05:09 16 Q. And did you bet on these races between the other owners,

10:05:14 17 whether it's "40" or "42" or the others?

10:05:22 18 A. Yes.

10:05:23 19 Q. How much was the bet per race?

10:05:31 20 A. Per race, 5,000 per colt. Besides all the side bets, a

10:05:39 21 thousand, 2,000.

10:05:44 22 Q. And did any of your horses win any of the races?

10:05:49 23 A. I won two and I lost two.

10:05:51 24 Q. Okay. Did you collect any of the winnings?

10:05:55 25 A. No.

10:05:56 1 Q. Why was that?

10:05:58 2 A. Didn't like to pay. He was the boss.

10:06:02 3 Q. You mean he, you mean "40."

10:06:10 4 So going back a little bit, did you ever observe Carlos
10:06:14 5 Nayen talking to Pancho Colorado on the phone?

10:06:23 6 A. Lots.

10:06:25 7 Q. Approximately how many times a week?

10:06:31 8 A. I think it was like 15 to 20.

10:06:34 9 Q. And did you overhear some of these conversations?

10:06:45 10 A. Well, yeah. Most of it was about horses or their stuff.

10:06:50 11 Q. Were you ever present when "40" asked Carlos Nayen to get in
10:06:54 12 touch with Pancho Colorado?

10:07:01 13 A. Yes.

10:07:01 14 Q. And what did "40" say?

10:07:05 15 MR. CHRIS FLOOD: Objection. Hearsay, your Honor.

10:07:07 16 THE COURT: Not offered for the truth. He's just
10:07:11 17 telling what he heard. Go ahead. Overruled.

10:07:20 18 A. Can you repeat the question, please?

10:07:21 19 Q. (BY MR. GARDNER) What would "40" say to Carlos when he
10:07:25 20 wanted to get in touch with Pancho Colorado?

10:07:28 21 MR. CHRIS FLOOD: Same objection, your Honor.

10:07:29 22 THE COURT: Same ruling.

10:07:36 23 A. Call your dad.

10:07:38 24 Q. (BY MR. GARDNER) Have you ever heard "40" make threats
10:07:44 25 directly to Pancho Colorado?

10:07:51 1 A. Never.

10:07:52 2 Q. Have you ever heard "40" address others in the organization
10:07:57 3 making threats about Pancho Colorado?

10:08:06 4 A. No.

10:08:08 5 Q. So going back --

10:08:12 6 A. Not that I was there. No.

10:08:16 7 Q. So going back to that race in Morelos, what happened after
10:08:21 8 the races were over?

10:08:52 9 A. Well, while the event was still going on, I went over to
10:08:59 10 where there were some of the city people, not the Zeta people.

10:09:03 11 And "40," who was cursing but basically he said, Poncho, what are
10:09:07 12 you doing over there? Have you already told them?

10:09:10 13 MR. CHRIS FLOOD: Judge, I object. It's nonresponsive.
10:09:12 14 It also calls for hearsay.

10:09:15 15 THE COURT: Question was what -- what happened after
10:09:18 16 the races were over, perhaps you ought to narrow it a little bit.

10:09:24 17 Q. (BY MR. GARDNER) Okay. So you testified earlier that "40"
10:09:27 18 and Pancho Colorado were together during this race?

10:09:36 19 A. Yes, sir.

10:09:37 20 Q. At some point, did you leave that group and go across the
10:09:41 21 racetrack?

10:09:48 22 A. Yes.

10:09:48 23 Q. And at that point, was "40" and Pancho Colorado still
10:09:53 24 standing side-by-side?

10:10:00 25 A. Close. Yes.

10:10:03 1 Q. And did "40" yell something to you across the racetrack?

10:10:11 2 A. Yes.

10:10:12 3 Q. And was that within the hearing of Pancho Colorado?

10:10:19 4 A. Of course, he yelled it.

10:10:21 5 Q. Could everyone else that you were sitting with on the other

10:10:24 6 side of the racetrack hear it?

10:10:30 7 A. Yes, sir.

10:10:31 8 Q. And what did "40" say to you?

10:10:34 9 A. He asked -- well, he was saying, are you ashamed to be here

10:11:02 10 with us? Have you told them that with your former bosses, you

10:11:05 11 didn't pay anything and with us, you're making millions of

10:11:08 12 dollars? And so, then, I crossed back over to where they were

10:11:11 13 and he says, are you shamed to be with us? You're a drug dealer

10:11:15 14 just like the rest of us. And I just stayed there.

10:11:19 15 Q. Stayed back on the side with "40" and Pancho Colorado,

10:11:23 16 right?

10:11:23 17 A. "Forty-two" and everybody.

10:11:26 18 Q. Now, Morelos, what state was that in?

10:11:32 19 A. Coahuila.

10:11:33 20 Q. And is that Zeta territory?

10:11:37 21 A. Yes.

10:11:39 22 Q. All right. So you said earlier that you did not see Pancho

10:11:42 23 Colorado with any security. When he came to that race, was he

10:11:46 24 protected by the Zetas?

10:12:02 25 A. Well, I guess you could say that was true for all of us

10:12:16 1 because if someone showed up there, they were the ones that were
10:12:19 2 going to fight it. None of us were armed.

10:12:22 3 Q. So once you become part of the organization, are you
10:12:26 4 protected by the organization?

10:12:32 5 A. Yes.

10:12:33 6 Q. Do you become a target of other organizations, other
10:12:38 7 drug-trafficking cartels?

10:12:43 8 A. A hundred percent.

10:12:46 9 Q. Do you personally know whether Pancho Colorado had the
10:12:52 10 protection of the Zetas?

10:13:03 11 A. Yes, a hundred percent.

10:13:06 12 Q. Based on your experience in the cartel and what you've seen,
10:13:12 13 did the leadership of the cartel have any reason to kill Pancho
10:13:24 14 Colorado?

10:13:24 15 A. No.

10:13:25 16 Q. Why is that?

10:13:34 17 A. While I was there, Pancho Colorado was one of their
10:13:38 18 preferred people.

10:13:39 19 Q. Why is that?

10:13:53 20 A. Because he's a rich man, and so, he's like a trophy.

10:13:59 21 Through him I can become involved in politics and other things
10:14:03 22 through him.

10:14:06 23 Q. How much territory did the Zetas control when you were
10:14:11 24 there? How many states?

10:14:18 25 A. Twenty-six or 27 states.

10:14:21 1 Q. My geography's a little fuzzy, but how many states in
10:14:26 2 Mexico, 33?

10:14:32 3 A. No. It's 30 or 31 with a federal district -- plus a federal
10:14:36 4 district. I hope I'm not mistaken.

10:14:40 5 Q. Close enough.

10:14:42 6 How much money did "40" have?

10:14:52 7 A. I don't know how much, but I think he had a billion dollars.

10:15:00 8 Q. Would "40" have any reason to extort more money out of
10:15:04 9 Pancho Colorado?

10:15:15 10 A. From the time Pancho Colorado helped "40" buy one of his
10:15:29 11 horses here in the United States, he had become a friend.

10:15:36 12 Q. So was "40" looking for more money?

10:15:44 13 A. Launder money.

10:15:47 14 Q. And was that his money? I'm sorry, was that "40's" money
10:15:51 15 that he was seeking to launder?

10:15:56 16 A. Yes.

10:16:01 17 Q. Now, up until the time you left for the United States, did
10:16:06 18 you have good relations with "40"?

10:16:15 19 A. Real good one.

10:16:17 20 Q. Did he ever threaten you?

10:16:21 21 A. Never.

10:16:24 22 Q. And did you learn, at the end, why you had to flee the
10:16:27 23 United States or flee Mexico to the United States?

10:16:35 24 A. Yes.

10:16:35 25 Q. And why was that?

10:16:38 1 A. Without me knowing it, Hector Moreno, Jr., Hector Moreno's
10:16:52 2 dad, and one of Hector's brothers were working with the U.S.
10:16:56 3 authorities.

10:16:57 4 Q. Were you working with the U.S. authorities at that time?

10:17:02 5 A. No.

10:17:03 6 Q. So why would "40" or the Zeta leadership be upset at you?

10:17:13 7 A. Because they always thought I was the one that was
10:17:17 8 cooperating.

10:17:19 9 Q. May I have one moment, your Honor?

10:17:21 10 THE COURT: You may.

10:17:33 11 MR. GARDNER: Your Honor, I'll pass the witness.

10:17:37 12 THE COURT: One second. All right. Your witness,
10:17:45 13 counsel.

10:17:46 14 MR. CHRIS FLOOD: Thank you, your Honor. I could use a
10:17:49 15 bit more of a break. I don't know what time you like to -- I can
10:17:54 16 probably polish up my cross and shorten it.

10:17:56 17 THE COURT: Yeah. This is probably a good time.
10:17:58 18 Fifteen-minute recess, ladies and gentlemen.

10:33:44 19 (Recess.)

10:33:47 20 THE COURT: All right. You may be seated until the
10:33:50 21 jury comes in.

10:35:30 22 (Jury present.)

10:35:32 23 THE COURT: Mr. Flood.

10:35:33 24 MR. CHRIS FLOOD: Thank you, your Honor.

10:35:34 25

CROSS-EXAMINATION

BY MR. CHRIS FLOOD:

Q. Mr. Cuellar, my name is Chris Flood. You and I have never spoken before, correct?

A. No, sir.

Q. Yesterday, you testified that you went to Mexico, I think, in 2005?

A. Yes, sir.

Q. Because you believed that the FBI was investigating you and was planning on charging you with crimes that you had committed in the United States.

A. I didn't believe. I was certain of it.

Q. Okay. Because you had done those things that they were going to charge you with, correct?

A. Yes, sir.

Q. And after returning to Mexico, I think you've testified that you began working for the Zetas.

A. In the beginning, no, because the Zetas weren't there. And I stopped working because I didn't have any clients because all of them had been picked up.

Q. And that you then later started working for the Zetas, moving cocaine north. Is that a fair depiction of what your job was?

A. Yes, sir.

Q. And you said you were not a Zeta yourself, but you were work

10:37:34 1 ing for the Zetas?

10:37:39 2 A. Yes, sir.

10:37:40 3 Q. And that you weren't like the Zetas, you just worked for
10:37:45 4 them?

10:37:50 5 A. Yes, sir.

10:37:52 6 Q. And that after working for them for some period of time, you
10:37:57 7 came to the United States because you started feeling strange
10:38:01 8 about the way "40," the leader of the Zetas, was treating you.

10:38:18 9 A. Not strange. It was that all the indications was -- were
10:38:27 10 that there was trouble. Because it had already been done to
10:38:32 11 other people in the same fashion.

10:38:36 12 Q. All right. And when in 2011 did you come to the United
10:38:53 13 States?

10:38:53 14 A. Between March 2010, the 18th -- I don't remember the exact
10:39:03 15 date. Tenth -- between the 10th, the 15th, the 16th, I don't
10:39:07 16 remember the exact date.

10:39:08 17 Q. In fact, didn't you flee to the United States because you
10:39:12 18 were under investigation for crimes committed in Mexico?

10:39:26 19 A. No.

10:39:27 20 Q. May I approach the witness?

10:39:29 21 A. I had never had -- I've not had charges in Mexico, ever.

10:39:35 22 Q. I'm going to show you what I've marked as Defendant's
10:39:38 23 Exhibit No. 22, and I'm going to hand the extra copy to the
10:39:42 24 government, your Honor.

10:39:43 25 A. I can't see.

10:39:52 1 Q. Thank you. Last time that didn't work well.

10:39:59 2 A. Thank you, sir.

10:40:00 3 Q. And I'm going to first ask you, have you ever seen that
10:40:04 4 document before?

10:40:05 5 MR. GARDNER: Your Honor, I'm going to object at this
10:40:06 6 point. Improper impeachment.

10:40:08 7 THE COURT: I'm sorry?

10:40:10 8 MR. GARDNER: Improper impeachment, your Honor. I
10:40:14 9 think the Court probably needs to look at this first.

10:40:17 10 MR. CHRIS FLOOD: I've only asked him if he's seen it,
10:40:19 11 sir. I haven't moved to introduce it.

10:40:22 12 THE COURT: Ladies and gentlemen, I'm going to excuse
10:40:24 13 y'all for a minute. I'll try and make this quick.

10:40:55 14 (Jury not present.)

10:40:59 15 THE COURT: You want the witness excused?

10:41:02 16 MR. GARDNER: Yes, your Honor.

10:41:03 17 THE COURT: Marshal. Let me guess, this is the Mexican
10:41:15 18 indictment.

10:41:15 19 MR. CHRIS FLOOD: It's the Mexican charges, your Honor,
10:41:17 20 yes. The allegations of the crime were about ten days before --

10:41:22 21 THE COURT: Everybody can be seated.

10:41:25 22 MR. CHRIS FLOOD: May be a little more than ten days.
10:41:28 23 More like 30 days before fleeing to the United States, your
10:41:30 24 Honor.

10:41:31 25 THE COURT: He get served with it?

10:41:34 1 MR. CHRIS FLOOD: I'm asking to see if he's ever seen
10:41:37 2 it before, Judge. I don't know if he's been served with it or
10:41:39 3 not.

10:41:40 4 THE COURT: And --

10:41:41 5 MR. GARDNER: Your Honor, the case file says, case
10:41:43 6 filed on July 25, 2012, well after he was in the United States.

10:41:49 7 MR. CHRIS FLOOD: And I'm not moving to introduce it,
10:41:51 8 your Honor. I was not doing that.

10:41:52 9 THE COURT: Well, then, what are we doing with it?

10:41:55 10 MR. CHRIS FLOOD: I'm asking if he's seen it.

10:41:57 11 THE COURT: And what relevance does that have? What
10:41:59 12 fact at issue is made more probable than not by referring to this
10:42:04 13 subsequent Mexican indictment or charge?

10:42:07 14 MR. CHRIS FLOOD: I think it impeaches his claim that
10:42:10 15 he fled to the United States because of "40." He fled to the
10:42:14 16 United States because he'd committed these crimes that are
10:42:18 17 alleged in this document. I can just ask him if he committed the
10:42:20 18 crimes because -- see if that was his --

10:42:24 19 THE COURT: If he says he's not aware of it, wasn't
10:42:26 20 aware of it before he fled, where are you?

10:42:29 21 MR. CHRIS FLOOD: I can then ask him if he committed
10:42:33 22 the crimes himself and that was his motive for fleeing to the
10:42:36 23 United States, just like he did in 2005, when he fled to Mexico,
10:42:39 24 Judge.

10:42:40 25 THE COURT: Not referring to these charges, if he says

10:42:43 1 that he didn't see these charges, he wasn't aware of them before
10:42:49 2 he fled, where are you?

10:42:51 3 MR. CHRIS FLOOD: I think I can then ask him if he
10:42:53 4 committed the crimes in 2011, right before fleeing, and that's
10:42:57 5 why he fled to the United States.

10:42:58 6 THE COURT: Well, he's admitted to that.

10:43:01 7 MR. CHRIS FLOOD: No, he's not, Judge. He's not
10:43:03 8 admitted to these crimes. Not these crimes.

10:43:05 9 THE COURT: What are those crimes?

10:43:07 10 MR. CHRIS FLOOD: He and Hector Moreno beat one person
10:43:13 11 until they were lifeless and killed another 30 days before he
10:43:18 12 fled to the United States.

10:43:21 13 MR. GARDNER: Your Honor, these are in Coahuila.

10:43:24 14 THE COURT: Just a second.

10:43:25 15 MR. GARDNER: Yes, sir.

10:44:02 16 THE COURT: Okay. As I understand it, what you want to
10:44:05 17 do is ask him if he's ever seen that and the question come up,
10:44:08 18 then, is dated subsequently to his fleeing. So you would admit
10:44:14 19 that whether he saw it at any time is irrelevant.

10:44:19 20 MR. CHRIS FLOOD: Unless I can then tie it to what he
10:44:22 21 expects to get in exchange.

10:44:24 22 THE COURT: How can you ever tie it?

10:44:26 23 MR. CHRIS FLOOD: Well, if I ask him, has the
10:44:28 24 government told you that you will not be extradited on these
10:44:31 25 charges in exchange for your testimony?

10:44:34 1 THE COURT: If you want to ask him, have you ever been
10:44:36 2 told by the government you would not be extradited by any
10:44:39 3 charges, period.

10:44:40 4 MR. CHRIS FLOOD: Right. I mean, but that's a separate
10:44:42 5 matter. As I said, I'm not moving to introduce this, Judge.

10:44:45 6 THE COURT: And I'm telling you that right now, you're
10:44:48 7 not even going to talk about it. I want to see.

10:44:51 8 MR. CHRIS FLOOD: The fact that there's charges.

10:44:52 9 THE COURT: By the fact that there's charges.

10:44:54 10 MR. CHRIS FLOOD: Okay.

10:44:55 11 THE COURT: But see where we are. Tell me where you're
10:44:57 12 going with this, and I'll tell you whether I'm going to exclude
10:45:00 13 it under 403 or I'm going to allow it.

10:45:03 14 MR. CHRIS FLOOD: I'm just going to try to impeach the
10:45:06 15 witness' statements as to why he fled to the United States, and
10:45:12 16 it's going to be --

10:45:12 17 THE COURT: And how are you going to do that?

10:45:15 18 MR. CHRIS FLOOD: To show that he fled to the United
10:45:17 19 States because he was under investigation for these crimes, not
10:45:22 20 because he was worried about "40."

10:45:23 21 THE COURT: And he said he was -- I believe he said he
10:45:26 22 didn't know he was under investigation.

10:45:27 23 MR. CHRIS FLOOD: No. He hadn't said that yet, your
10:45:31 24 Honor.

10:45:31 25 THE COURT: All right. If he says that, then where are

10:45:33 1 you?

10:45:34 2 MR. CHRIS FLOOD: Then I guess I have to move on, your
10:45:39 3 Honor, because I'm doing it to impeach his statement that -- you
10:45:45 4 recall I set it up by him saying, now you fled to Mexico for
10:45:49 5 crimes you're under investigation for that you committed, and he
10:45:52 6 said yes. That's right. And then, you fled from Mexico to the
10:45:56 7 United States, but you say it was because of "40." I want to be
10:45:59 8 able to show the jury that, in fact, his motive for coming to the
10:46:03 9 United States is because he knows he's under investigation for
10:46:06 10 this crime.

10:46:07 11 THE COURT: And if he says, I didn't know I was under
10:46:09 12 investigation by the Mexican authorities, where are you?

10:46:19 13 MR. CHRIS FLOOD: I may be able to ask him about the
10:46:21 14 crimes themselves because he did not disclose those in his direct
10:46:26 15 testimony that while he was down in Mexico, that's what he was
10:46:30 16 doing.

10:46:30 17 THE COURT: I'll exclude that under 403. So now what?
10:46:37 18 I mean, we're not going to go investigate and bring all of the
10:46:41 19 crimes that he might have committed in Mexico in here to impeach.
10:46:46 20 403 clearly excludes that.

10:46:50 21 MR. CHRIS FLOOD: I'm actually trying to offer it to
10:46:52 22 show that he's not being truthful in his previous testimony.

10:46:54 23 THE COURT: Well, you can make an offer of proof.

10:46:57 24 MR. CHRIS FLOOD: I'll ask him if he knew he was under
10:46:59 25 investigation.

10:47:00 1 THE COURT: No. I'll ask him. All right. Bring him
10:47:07 2 back. Bring the jury back.

10:48:09 3 (Jury present.)

10:48:48 4 THE COURT: Mr. Cuellar, prior to your moving or going
10:48:57 5 to the United States, did you know that you were under
10:49:00 6 investigation by the Mexican authorities?

10:49:04 7 THE WITNESS: No, sir.

10:49:06 8 THE COURT: Your witness, counsel.

10:49:09 9 MR. CHRIS FLOOD: Your Honor, I'd like to make an offer
10:49:10 10 of proof. Do you want me --

10:49:12 11 THE COURT: Well, you can make it after the jury's not
10:49:14 12 here.

10:49:14 13 MR. CHRIS FLOOD: Okay.

10:49:17 14 Q. (BY MR. CHRIS FLOOD) Mr. Cuellar, when you came back to the
10:49:27 15 United States in 2011, did you turn yourself in to the
10:49:33 16 authorities?

10:49:38 17 A. Yes, sir.

10:49:39 18 Q. And were you held in custody, in jail?

10:49:45 19 A. Yes.

10:49:46 20 Q. All right. And is that when you hired your lawyer, Frank
10:49:53 21 Perez?

10:49:57 22 A. Yes.

10:49:57 23 Q. Is he the same lawyer for Mr. Vasquez, Jr. and Sr.?

10:50:08 24 A. Correct.

10:50:10 25 Q. And how long were you in custody before you sat down and

10:50:20 1 talked to the government?

10:50:34 2 A. I don't understand. Are you asking when I was taken to
10:50:39 3 court?

10:50:40 4 Q. Well, the authorities I was talking about was when was it
10:50:45 5 that you first sat down with the agents that were investigating
10:50:50 6 you and/or the prosecutor that was prosecuting you?

10:51:07 7 A. Before. Before I was detained.

10:51:10 8 Q. Okay. So you sat down with which agents before you were
10:51:18 9 detained?

10:51:29 10 A. They were federal agents from all the agencies, but I
10:51:32 11 couldn't tell you which ones were there and which ones weren't.
10:51:35 12 There were too many of them.

10:51:37 13 Q. Okay. Was it Agent Lawson or Agent Pennington, the agents
10:51:42 14 that are sitting here in the courtroom?

10:51:49 15 A. No, sir.

10:51:53 16 Q. I think you testified that it was some time in March that
10:51:59 17 you -- in 2011 that you came to the United States. Was it in
10:52:02 18 March of 2011 that you sat down with the agents that you can't
10:52:07 19 remember their name?

10:52:17 20 A. No.

10:52:20 21 Q. Okay. Did you sign what's called a proffer letter with the
10:52:31 22 government before talking to the agents about your activities?

10:52:40 23 A. I don't know what you're talking about. I don't understand.

10:53:05 24 Q. May I approach the witness?

10:53:07 25 THE COURT: Yes.

10:53:11 1 Q. (BY MR. CHRIS FLOOD) I want to show you what I've marked as
10:53:15 2 Defendant's Exhibit No. 23 and ask you, is that your signature on
10:53:21 3 that document?

10:53:32 4 A. Yes. Of course, yes.

10:53:34 5 Q. And would this document refresh your recollection as to when
10:53:39 6 it was that you first sat down with the government to tell your
10:53:44 7 story?

10:53:58 8 A. Truthfully, I was in such state at that time that I couldn't
10:54:12 9 tell you about the dates. I couldn't remember the dates. I also
10:54:16 10 can't read English. I just -- whatever the attorney said for me
10:54:20 11 to sign, I signed.

10:54:20 12 Q. Could you read the date of that document to him in Spanish?

10:54:29 13 A. That I can do.

10:54:29 14 Q. Okay.

10:54:31 15 A. It was March 28th, 2011.

10:54:35 16 Q. Okay. And do you recall that you signed that document
10:54:39 17 before you ever sat down with the agents and your lawyer and told
10:54:43 18 your story?

10:54:59 19 A. Yes.

10:55:04 20 Q. Did you meet with the agents on that day, March 28th, the
10:55:08 21 day you signed that document?

10:55:17 22 A. I believe so.

10:55:19 23 Q. And even though it wasn't these two agents here, you were
10:55:25 24 there with your lawyer, and was the prosecutor in your case
10:55:29 25 there?

10:55:39 1 A. Yes, sir.

10:55:42 2 Q. And I think you've already said you don't remember the names
10:55:45 3 of the agents that were there for the government.

10:55:56 4 A. Not all of them.

10:55:57 5 Q. Okay. And at the time that you signed that letter and the
10:56:02 6 time that you met with the agents, was it explained to you that
10:56:07 7 you had to be truthful in your statements to them?

10:56:22 8 A. Yes, sir.

10:56:26 9 Q. Did they explain to you that you had to be complete in your
10:56:31 10 answers and you couldn't leave anything out?

10:56:38 11 A. Uh-huh. Yes. Yes. Sorry.

10:56:47 12 Q. And during that interview, did the agents that were there,
10:56:51 13 did they appear to take notes of what you were saying?

10:57:00 14 A. All of them.

10:57:03 15 Q. And have you been shown a report that was generated by the
10:57:09 16 agents who were taking the notes on March 28th of 2011?

10:57:23 17 A. No.

10:57:23 18 Q. You never saw that report?

10:57:25 19 A. No.

10:57:29 20 Q. Now, that prosecutor, those agents were from the Eastern
10:57:36 21 District of Texas up near Dallas.

10:57:44 22 A. Yes.

10:57:44 23 Q. And before testifying in Dallas, did they show you the
10:57:52 24 report that you -- that was generated from your interview in
10:57:55 25 March of 2011?

10:58:05 1 A. No.

10:58:08 2 Q. And in that first interview in March of 2011, did you tell
10:58:14 3 the agents the things that you've told this jury in the last two
10:58:19 4 days?

10:58:31 5 A. But I didn't see the agents in 2011.

10:58:35 6 Q. In March of --

10:58:37 7 A. Oh, oh, March. March 11th of 2011?

10:58:44 8 Q. March of 2011.

10:58:50 9 A. Okay. Can you repeat the question?

10:58:51 10 Q. Yeah. In March of 2011, did you tell the agents the things
10:58:55 11 that you've told us the last day and a half?

10:59:00 12 THE COURT: You want to rephrase that question, please?

10:59:02 13 I'm not sure I understand it.

10:59:04 14 MR. CHRIS FLOOD: Okay. I'm sorry.

10:59:05 15 Q. (BY MR. CHRIS FLOOD) In March of 2011, did you tell the
10:59:10 16 agents the things that you've testified to this morning and
10:59:14 17 yesterday?

10:59:15 18 THE COURT: What I don't understand is, are you saying
10:59:17 19 everything that he's testified to, or are you saying something
10:59:22 20 less?

10:59:23 21 MR. CHRIS FLOOD: Well, your Honor, I think he's
10:59:25 22 testified that he understood he had to be complete in his
10:59:29 23 debriefing with the agents in March. He'd have to tell them
10:59:32 24 everything about what he'd done.

10:59:33 25 THE COURT: Okay. I don't want an argument. Just

10:59:36 1 focus your question one way or the other.

10:59:39 2 Q. (BY MR. CHRIS FLOOD) Did you tell the agents in March what
10:59:42 3 you've said to us in court?

10:59:42 4 THE COURT: The same thing. Did you tell them
10:59:46 5 everything that you've said here in court?

10:59:54 6 THE WITNESS: Much of it. The majority of the things,
10:59:56 7 yes. If we spoke about the man, if you're referring to Pancho
11:00:06 8 Colorado, he was talked about. It was -- I was questioned for
11:00:13 9 three days. Everything I remembered at that time, I told. As we
11:00:19 10 had more meetings, more things have come out. There are way too
11:00:25 11 many things in my head.

11:00:26 12 Q. (BY MR. CHRIS FLOOD) There's what?

11:00:27 13 A. Way too many things in my head.

11:00:30 14 Q. And after you told the agents -- let me ask it this way.

11:00:39 15 After March of 28th of 2011 -- and I think you just
11:00:46 16 answered my question. You actually met with the agents for three
11:00:49 17 days during the first meeting?

11:01:02 18 A. I don't know the exact date, but I was questioned for three
11:01:11 19 days.

11:01:11 20 Q. Okay. And then, after those initial meetings, when was the
11:01:19 21 next time you met with the agents?

11:01:30 22 A. They went to go see me in the county where I was.

11:01:34 23 Q. I'm sorry? I didn't hear that answer.

11:01:36 24 A. They went to go see me in the county where I was.

11:01:39 25 Q. Okay.

11:01:42 1 A. I cannot give you dates because I don't remember them.

11:01:44 2 Q. All right. But after meeting with them, they gave you a
11:01:51 3 benefit in exchange for your discussions with them, did they not?

11:02:13 4 A. The prosecutor said this to me: We're not promising
11:02:18 5 anything and nothing's been offered. Those are the rules there
11:02:22 6 are.

11:02:23 7 Q. Right. But --

11:02:24 8 A. And he also said that to me in court.

11:02:27 9 Q. Well, after you met with them, the prosecutor agreed to
11:02:30 10 release you on bond.

11:02:38 11 A. Oh, yes.

11:02:40 12 Q. And so, you then were let out of jail in exchange for
11:02:46 13 telling the agents what they wanted to hear, right?

11:02:57 14 A. I believe I qualified for the bond because I was a U.S.
11:03:10 15 citizen, and I had a brace on, they were monitoring me all the
11:03:16 16 time. And I was asked for a bond.

11:03:20 17 Q. Do you recall that the government said because of your
11:03:23 18 cooperation in their investigation, that that's why they're
11:03:27 19 agreeing to release you on bond?

11:03:40 20 A. I don't remember that conversation you're telling me about.

11:03:45 21 Q. May I approach the witness, your Honor?

11:03:49 22 THE COURT: You may. And raise your voice when you're
11:03:51 23 away from the microphone. The jury's having a little difficulty
11:03:55 24 hearing the lawyers when they approach the witness.

11:03:57 25 MR. CHRIS FLOOD: Thank you, your Honor.

11:04:28 1 THE COURT: You may approach the witness.

11:04:30 2 MR. CHRIS FLOOD: Well, in a minute, your Honor. I
11:04:31 3 need one more question.

11:04:32 4 THE COURT: Oh, sure.

11:04:34 5 Q. (BY MR. CHRIS FLOOD) Just so I'm clear, in March of 2011,
11:04:39 6 when you signed that letter, you were actually in jail, correct?

11:04:42 7 A. I don't remember.

11:04:54 8 Q. All right. If I may approach the witness now.

11:04:57 9 THE COURT: You may.

11:04:59 10 Q. (BY MR. CHRIS FLOOD) I've placed before you what I've marked
11:05:09 11 as Defendant's Exhibit No. 24, and I'm going to ask you, have you
11:05:14 12 ever seen that document?

11:05:33 13 A. I've seen a lot of documents. I can't tell you specifically
11:05:37 14 that this document I had seen, but I have seen a lot of
11:05:41 15 documents, and I signed them and I've signed everything through
11:05:43 16 my attorney.

11:05:44 17 Q. All right. Does that refresh your memory that on May 2nd of
11:05:48 18 2011, after meeting with the agents, the government agreed to
11:05:53 19 release you on bond or recommend that the Court release you on
11:05:57 20 bond?

11:06:03 21 A. Correct.

11:06:18 22 Q. After you were released on bond, when was the next time you
11:06:31 23 met with the government?

11:06:43 24 A. There were a lot of times. I don't remember the dates.

11:06:45 25 Q. Can you estimate for us how many times you sat down with the

11:06:50 1 government agents and was interviewed?

11:07:04 2 A. Twenty, 30 times, 40, I don't know.

11:07:08 3 Q. And each time, did the agents appear to be taking notes of
11:07:18 4 what you were saying?

11:07:20 5 A. Yes, sir.

11:07:32 6 Q. And have you seen any of the reports from those interviews
11:07:38 7 that occurred after you were released on bond?

11:07:49 8 A. No. Not that I remember.

11:07:54 9 Q. Sorry?

11:07:55 10 A. Not that I remember.

11:07:58 11 Q. Now, I have and I'll mark again for identification purposes
11:08:24 12 -- may I approach the witness, your Honor?

11:08:26 13 THE COURT: You may.

11:08:27 14 MR. GARDNER: Your Honor, I'm going to object to the
11:08:29 15 attorney showing the witness this particular document.

11:08:32 16 THE COURT: I beg your pardon?

11:08:33 17 MR. GARDNER: I'm objecting to the defense attorney
11:08:35 18 showing the witness this particular document. It's improper
11:08:38 19 impeachment.

11:08:40 20 THE COURT: Let me see a copy. Let me see yours.

11:08:49 21 MR. GARDNER: I believe the witness responded he had
11:08:50 22 not seen any of the reports to the last question.

11:09:03 23 THE COURT: A 302?

11:09:04 24 MR. GARDNER: Yes, sir.

11:09:05 25 THE COURT: Okay. I want to see where you go with it.

11:09:26 1 Have you ever seen that document?

11:09:32 2 THE WITNESS: No, no. In fact, I don't remember
11:09:42 3 anything about any of the papers I'd signed. I'm not saying that
11:09:53 4 I didn't sign it. I'm just saying I don't know what this
11:09:56 5 document -- any document it is, whether I signed it or not signed
11:09:59 6 it, what it says.

11:10:01 7 THE COURT: Does your signature appear on that?

11:10:16 8 THE WITNESS: No.

11:10:18 9 THE COURT: Do you recall ever seeing it before today?

11:10:23 10 THE WITNESS: No, sir.

11:10:25 11 THE COURT: All right.

11:10:28 12 Q. (BY MR. CHRIS FLOOD) Do you recall meeting with Special
11:10:32 13 Agent Lawson on November 14th of 2011?

11:10:43 14 A. I don't know who Lawson is.

11:10:45 15 Q. Okay. Special Agent Scott Lawson, you don't recall meeting
11:10:50 16 with him in November of 2011?

11:10:54 17 A. I don't remember, but I did see him several -- many times.
11:11:09 18 I don't know the dates.

11:11:11 19 Q. Would the report prepared by Agent Lawson on November 18th,
11:11:16 20 2011 of your interview on November 14th, 2011 refresh your memory
11:11:22 21 about whether or not you met with him?

11:11:25 22 MR. GARDNER: Your Honor, I object. He's attempting to
11:11:28 23 impeach the witness or refresh the witness' recollection with
11:11:31 24 another witness' statements.

11:11:32 25 THE COURT: Yeah. As the question is phrased, I'm

11:11:42 1 going to sustain the objection. You may try to rephrase it.

11:11:47 2 Q. (BY MR. CHRIS FLOOD) Would the -- Defendant's Exhibit, what
11:11:52 3 number is it, 24? I've lost track now. Twenty-five.

11:11:58 4 Would Defendant's Exhibit 25 refresh your memory about
11:12:02 5 meeting with Agent Lawson and, in fact, Special Agent Steve
11:12:06 6 Pennington on November 14th of 2011?

11:12:10 7 THE COURT: Yes, no, or I don't know.

11:12:27 8 THE WITNESS: I don't know.

11:12:29 9 Q. (BY MR. CHRIS FLOOD) You don't know if it would refresh your
11:12:31 10 memory?

11:12:42 11 A. Sir, Mr. Attorney, I don't know remember dates. I don't
11:12:48 12 remember times. I did see them several times, but I have no
11:12:52 13 memory of years, dates, or when. If it's here, I saw them, but I
11:13:01 14 don't know the dates. I'm bad at remembering dates.

11:13:05 15 Q. Okay. So you just said if it's here, then I saw them. Can
11:13:12 16 you review that document and tell us whether or not Agent Lawson
11:13:16 17 has reflected what you said on that date accurately?

11:13:20 18 MR. GARDNER: Your Honor, I'm going to object to asking
11:13:22 19 the witness to adopt another witness' statements. Improper
11:13:25 20 impeachment.

11:13:25 21 THE COURT: Read the document, please.

11:13:40 22 THE WITNESS: I don't know how to read in English.

11:13:46 23 THE COURT: Now what are you going to do? What do you
11:13:51 24 want?

11:13:52 25 MR. CHRIS FLOOD: What I'm trying to --

11:13:54 1 THE COURT: What do you want from me?

11:13:57 2 MR. CHRIS FLOOD: Well, your Honor, I was merely asking
11:13:58 3 the witness if that document --

11:14:00 4 THE COURT: I'm just --

11:14:03 5 MR. CHRIS FLOOD: I'm just trying to see if he recalls
11:14:05 6 meeting with Agent Lawson on November 14th.

11:14:08 7 THE COURT: And he said he doesn't. Now what?

11:14:11 8 MR. CHRIS FLOOD: Then ask him if that document would
11:14:13 9 refresh his memory. He said if it's there, I did.

11:14:17 10 THE COURT: He can't read it. Now what? I'm probably
11:14:22 11 willing to help you if you will just tell me how.

11:14:25 12 MR. CHRIS FLOOD: I wanted to ask the witness if he
11:14:27 13 recalls telling Agent Lawson on November 14, 2011 the things he
11:14:34 14 testified to while here in court.

11:14:37 15 THE COURT: And that doesn't get us any further. Is
11:14:40 16 there some particular thing that you would like to ask him
11:14:42 17 whether he recalls saying?

11:14:46 18 MR. CHRIS FLOOD: There's a number of things that he
11:14:49 19 has testified to here today that are not included in that report,
11:14:52 20 your Honor.

11:14:53 21 THE COURT: Well, ask him whether he ever told on that
11:14:59 22 day -- although I don't know how you're going to get there. I
11:15:03 23 really don't. I'm sorry, but you're the lawyer. I'm just
11:15:06 24 sitting up here calling balls and strikes.

11:15:08 25 MR. CHRIS FLOOD: Fair enough.

11:15:11 1 Q. (BY MR. CHRIS FLOOD) Isn't it a fact that your testimony
11:15:14 2 earlier today where you say that Pancho Colorado was standing
11:15:18 3 next to "40" and "40" yelled across, what, are you ashamed of
11:15:22 4 being a drug dealer, that's -- you never told Agent Lawson that
11:15:26 5 back in November of 2011, did you?

11:15:46 6 A. No.

11:15:47 7 Q. And you didn't tell it again on January 24, 2012, when you
11:15:52 8 met with him, either, did you?

11:16:01 9 A. No, because this -- they weren't specific -- they weren't
11:16:18 10 specifically looking about this case. They were talking about
11:16:21 11 things in general and my general knowledge as things gone on, and
11:16:25 12 they'd gotten more specific about cases, things have come out.
11:16:35 13 As each case has gone on, things have become more focused on
11:16:40 14 that. They've gathered on it. There is more -- they determined
11:16:43 15 more detail and more things have come out. They're all true.

11:16:50 16 You have your file. He can tell you that he was there
11:16:53 17 and that I'm not lying if you want to know the truth.

11:16:58 18 Q. The first time you met with the agents and sat with them for
11:17:02 19 three days, you never mentioned anything about "40" yelling
11:17:06 20 across the racetrack with his good friend Pancho Colorado, did
11:17:10 21 you?

11:17:10 22 THE COURT: Asked and answered. He said no.

11:17:13 23 MR. CHRIS FLOOD: Those are different dates, your
11:17:15 24 Honor. I'm saying the first time that he was supposed to tell --

11:17:20 25 THE COURT: Oh, okay.

11:17:20 1 Q. (BY MR. CHRIS FLOOD) You never mentioned anything about
11:17:22 2 Pancho Colorado standing there with "40" and "40" yelling across
11:17:28 3 the racetrack, did you?

11:17:48 4 A. That he yelled it, no, but that he was there, yes. I've
11:17:52 5 always said he was there. And now that this case is coming --
11:17:55 6 now that this -- that I'm going into more detail, more things are
11:17:58 7 coming out.

11:17:59 8 Q. So it's your testimony that you said it in March of 2011
11:18:03 9 when you were debriefed for three days?

11:18:08 10 THE COURT: Said what?

11:18:11 11 MR. CHRIS FLOOD: The incident about Mr. Colorado being
11:18:14 12 at the racetrack --

11:18:15 13 THE COURT: Ask your question --

11:18:17 14 MR. CHRIS FLOOD: -- treating him as a friend.

11:18:20 15 THE COURT: Ask your question again.

11:18:23 16 Q. (BY MR. CHRIS FLOOD) Is it your testimony that when you
11:18:25 17 debriefed for three days, where you were supposed to tell the
11:18:28 18 whole truth, you told the agents in March of 2011 about the
11:18:34 19 incident where Pancho Colorado was "40's" friend and "40" yelled
11:18:39 20 across the racetrack at you about --

11:18:40 21 THE COURT: That's two questions. Stop now.

11:18:45 22 Is it your testimony that when you debriefed for three
11:18:49 23 days where you were supposed to tell the whole truth, you told
11:18:52 24 the agents in March of 2011 about the incident where Pancho
11:18:59 25 Colorado was "40's" friend?

11:19:05 1 THE WITNESS: As "40's" friend, yes.

11:19:10 2 THE COURT: Next question.

11:19:12 3 Q. (BY MR. CHRIS FLOOD) All right. And did you tell them about
11:19:15 4 yelling across the racetrack, you're a drug dealer just like the
11:19:18 5 rest of us?

11:19:26 6 A. Everybody heard it.

11:19:28 7 Q. No. Did you tell the agents about that in March of 2011?

11:19:33 8 A. No. No.

11:19:37 9 Q. And May of 2012, you were sentenced to 236 months,
11:19:44 10 essentially 19-and-a-half years by Judge Krone in the Eastern
11:19:48 11 District of Texas correct?

11:19:55 12 A. Yeah. A little bit more. Almost 20.

11:20:06 13 Q. Okay. And in August of 2013, you testified -- or prior to
11:20:15 14 August of 2013, you testified for the government, didn't you?

11:20:27 15 A. Yes, sir.

11:20:28 16 Q. And as a result of your testimony, Mr. Gardner informed the
11:20:35 17 prosecutor up in the Eastern District of your testimony, didn't
11:20:38 18 he?

11:20:47 19 A. I don't know.

11:20:49 20 Q. The government through their lawyer in the Eastern District
11:20:53 21 filed a motion with the Court asking that your sentence be
11:20:56 22 reduced from 236 months to 118 months, after you testified for
11:21:04 23 Mr. Gardner. Isn't that true?

11:21:21 24 A. No, because I had already gone to two other courts.

11:21:25 25 Q. Was your sentence reduced to 118 months?

11:21:38 1 A. Yes, but not because I came here. Because I went to three
11:21:43 2 places.

11:21:44 3 Q. All right. But you also came here before your sentence got
11:21:49 4 reduced to 118 months; isn't that correct?

11:21:57 5 A. Yes, sir.

11:21:58 6 Q. All right. So after you testified on behalf of the
11:22:04 7 government, at the request of Mr. Gardner, your sentence was
11:22:08 8 reduced from 236 to 118 months. Yes or no?

11:22:13 9 A. Yes, sir.

11:22:13 10 Q. And then, after that, the government -- did I just lose my
11:22:20 11 sound, Judge? Okay. No. Just the screen. I apologize.

11:22:24 12 After that, the government asked to reduce your
11:22:28 13 sentence even further from 118 months to 78 months.

11:22:47 14 A. I don't know how much it is. If it's 78 or -- I don't know
11:22:50 15 how much I have left. It's somewhere in there between 78, 80 and
11:22:58 16 90. That's what I have left.

11:22:59 17 Q. And you've been told by Mr. Gardner that if you come in and
11:23:06 18 testify in this trial, he will make a recommendation to the
11:23:11 19 Eastern District to reduce your sentence even further.

11:23:29 20 A. Yes, a recommendation, but he's also told me that he's not
11:23:32 21 assuring me of anything.

11:23:34 22 Q. Right. But he told you that last time.

11:23:39 23 A. Yes. True.

11:23:41 24 Q. And the last time, it went from 236 months in custody,
11:23:45 25 19-and-a-half years, to 118 months in custody, right?

11:23:50 1 A. Yes.

11:23:50 2 Q. And then, it went even further down to 78 months in custody,
11:23:55 3 right?

11:24:01 4 A. I don't have a problem with that, but if that's what you're
11:24:05 5 saying, must be.

11:24:06 6 Q. And last time you testified for Mr. Gardner, there were
11:24:08 7 other people you were testifying against, correct?

11:24:15 8 A. I was called here about seven or eight months ago and I
11:24:29 9 came. If that's the case you're talking about.

11:24:30 10 Q. You were testifying against other people.

11:24:37 11 A. I was brought, but I didn't come out because the person
11:24:41 12 signed and pled guilty.

11:24:42 13 Q. Okay. But now that you're here to testify against Mr.
11:24:47 14 Colorado, this is the first time that you've ever claimed that
11:24:54 15 "40" yelled across the racetrack and said, you're a drug dealer
11:25:00 16 just like the rest of us, referring to him and Mr. Colorado;
11:25:05 17 isn't that true?

11:25:15 18 A. Mr. Colorado, no. Us because there was a bunch of us in
11:25:33 19 that group that we were all working. When he said us, he was
11:25:42 20 talking about those of us that worked for the Zetas or the Zetas
11:25:45 21 themselves.

11:25:46 22 Q. Okay. If I may have just a minute, your Honor.

11:25:59 23 THE COURT: Certainly.

11:26:06 24 Q. (BY MR. CHRIS FLOOD) And I think it was your testimony that
11:26:07 25 there were other horse owners there at that race, as well.

11:26:15 1 A. Yes, sir.

11:26:16 2 Q. And I guess those other horse owners, if they brought their
11:26:21 3 armed security, that could create a conflict with the Zetas'
11:26:26 4 armed security, couldn't it?

11:26:36 5 A. No one could bring. No one but the Zetas could bring
11:26:42 6 guards.

11:26:42 7 Q. I don't have any further questions, your Honor.

11:26:47 8 THE COURT: Redirect.

11:26:48 9 MR. GARDNER: Thank you, your Honor.

11:26:50 10 RE-DIRECT EXAMINATION

11:26:50 11 BY MR. GARDNER:

11:26:55 12 Q. Again, Mr. Cuellar, where was Pancho Colorado standing in
11:27:00 13 relation to "40" during that race in Morelos?

11:27:19 14 A. Standing in front, looking towards the gates where the
11:27:25 15 horses come out. We were to the left between two fences.

11:27:29 16 Q. And was Pancho Colorado standing next to "40" during the
11:27:33 17 races?

11:27:38 18 A. Much of the time.

11:27:40 19 Q. And the question that Mr. Flood just asked you about the
11:27:43 20 other horse owners, were they also standing next to "40" and
11:27:50 21 Pancho during much of the races?

11:27:58 22 A. No.

11:28:00 23 Q. Would it be safe to say that you've been asked thousands of
11:28:03 24 questions about a lot of things that you know?

11:28:14 25 A. Thousands.

11:28:16 1 Q. By many agents and many prosecutors?

11:28:21 2 A. By all of them.

11:28:22 3 Q. And have always done your best to answer those questions to
11:28:26 4 the best of your ability?

11:28:27 5 MR. CHRIS FLOOD: Objection, your Honor. That's
11:28:29 6 argumentative. I object. It's argumentative, your Honor.

11:28:32 7 THE COURT: No. I'm going to let you answer.

11:28:50 8 MR. CHRIS FLOOD: Objection. Nonresponsive.

11:28:51 9 THE WITNESS: Always and --

11:28:52 10 MR. CHRIS FLOOD: Your Honor, I object. It's
11:28:53 11 nonresponsive.

11:28:56 12 THE COURT: The question was, have you done your best
11:29:02 13 to answer questions to the best of your ability? Yes? No?

11:29:08 14 THE WITNESS: Yes, your Honor.

11:29:10 15 MR. GARDNER: Thank you, your Honor. Pass the witness.

11:29:12 16 MR. CHRIS FLOOD: I have no further questions, your
11:29:14 17 Honor.

11:29:14 18 THE COURT: All right. Is the witness excused?

11:29:17 19 MR. GARDNER: Please, your Honor.

11:29:19 20 MR. CHRIS FLOOD: Your Honor, I'd ask that he be held
11:29:22 21 only -- I need to have for the offer of proof.

11:29:25 22 THE COURT: We're going to do that right now. So.

11:29:28 23 MR. CHRIS FLOOD: Okay.

11:29:29 24 THE COURT: Ladies and gentlemen, this is a good time
11:29:34 25 to take a break. Do you mind taking your lunch hour at 11:30?

11:29:39 1 Is that going to be all right? Okay. See y'all again at 12:30.
11:29:43 2 Remember, don't discuss it with anybody, not even your nearest
11:29:46 3 and dearest.

11:30:14 4 (Jury not present.)

11:30:26 5 THE COURT: As you know, Mr. Flood, there are a couple
11:30:29 6 of ways you could do an offer of proof. Frankly, I'd prefer you
11:30:32 7 tell me what you think you can elicit from him, and then, you can
11:30:38 8 ask him about it. But how do you want to do it?

11:30:42 9 MR. CHRIS FLOOD: Well, I'll do it any way the Court
11:30:45 10 wants, however, I want to be able to put in the record that I was
11:30:47 11 going to ask him about why he fled from Mexico. That had nothing
11:30:50 12 to do with "40."

11:30:51 13 THE COURT: All right. Go ahead. Let's --

11:30:58 14 MR. CHRIS FLOOD: I'll make it quick, your Honor.
11:31:01 15 Thank you.

11:31:01 16 THE COURT: Either way.

11:31:01 17 EXAMINATION

11:31:01 18 BY MR. CHRIS FLOOD:

11:31:03 19 Q. Mr. Cuellar, you said that you had fled Mexico to the United
11:31:06 20 States because of things that "40" was doing, correct?

11:31:14 21 A. Yes. That his people told me. Yes.

11:31:18 22 Q. In addition, you fled Mexico because on February 8th of
11:31:25 23 2011, you and some other individuals, including Hector Moreno,
11:31:33 24 were involved in the abduction of three gentlemen; isn't that
11:31:38 25 correct?

11:31:50 1 A. False.

11:31:51 2 Q. All right. Did you not with the help of Mr. Moreno abduct

11:31:55 3 Miguel Humberto Uribe, Mauricio Humberto Uribe and Francisco

11:32:03 4 Villarreal?

11:32:06 5 A. Of the three of them, I knew Miguel Uribe. I knew his

11:32:13 6 brother existed. The other guy, I never met.

11:32:16 7 Q. And isn't it a fact that one of the reasons you left Mexico

11:32:20 8 was because in February of 2011, you hit Francisco Villarreal

11:32:26 9 with a mallet striking him on his leg, arms and body, causing him

11:32:32 10 to bleed profusely while telling Miguel Uribe, this is going to

11:32:36 11 happen to you because you messed with my wife?

11:32:57 12 A. Hundred percent false.

11:33:00 13 Q. And that you also ordered Hector Moreno to beat Jose Luis

11:33:06 14 Garza-Gaytan until he was lifeless and appeared dead?

11:33:21 15 A. Who is Jose Luis Garza-Gaytan?

11:33:26 16 Q. And isn't it true that you then took the same mallet and

11:33:30 17 beat Miguel Humberto until he was dead?

11:33:39 18 A. That's not true. False.

11:33:40 19 Q. And then, finally, you took -- turned to a third person who

11:33:46 20 accompanied you and Mr. Moreno by the name of Rafa, and you told

11:33:50 21 Rafa to cook the bodies?

11:34:03 22 A. False.

11:34:04 23 Q. But you know you've been accused of that in Mexico today,

11:34:09 24 correct?

11:34:15 25 A. Yes. Can I tell you why?

11:34:17 1 Q. And has Mr. Gardner promised any sort of benefit with regard
11:34:24 2 to those allegations against you in exchange for your testimony?

11:34:36 3 A. Zero.

11:34:36 4 Q. Are you currently applying for the Witness Protection
11:34:40 5 Program that would then keep you from being extradited?

11:34:55 6 A. I'm doing that because the problems I have with "40" and
11:35:02 7 "42." May I add something?

11:35:04 8 MR. CHRIS FLOOD: That's what I have for my offer of
11:35:06 9 proof, your Honor.

11:35:06 10 THE COURT: All right. Thank you. Now, can we excuse
11:35:08 11 the witness?

11:35:10 12 MR. CHRIS FLOOD: Yes, sir.

11:35:10 13 THE COURT: The witness is excused. Thank you, sir.

11:35:13 14 MR. GARDNER: Excuse me, your Honor. My next witness
11:35:15 15 is Hector Moreno. I assume that Mr. Flood wanted to do the same
11:35:19 16 thing with him. Do you want to reconvene a little bit early to
11:35:22 17 save some time so Mr. Flood could have an offer of proof for Mr.
11:35:26 18 Moreno?

11:35:26 19 MR. CHRIS FLOOD: It would depend on how Mr. Moreno
11:35:29 20 answers the questions.

11:35:32 21 THE COURT: Let's go.

11:35:32 22 MR. CHRIS FLOOD: Before we release him, also, we need
11:35:34 23 to take the matter up with the 302s, I think, have now become
11:35:37 24 relevant in light of the witness' answers.

11:35:40 25 THE COURT: All right. But he can leave, right? What

11:35:45 1 do you want --

11:35:46 2 MR. CHRIS FLOOD: The 302s were produced and we need to
11:35:48 3 ask him questions of it. I would rather him not be released,
11:35:51 4 your Honor.

11:35:51 5 THE COURT: All right. He is not --

11:35:54 6 MR. CHRIS FLOOD: I passed him.

11:35:55 7 THE COURT: So what do you want?

11:35:56 8 MR. CHRIS FLOOD: I would like him to be -- remain
11:35:59 9 available until we've had a chance to review the 302s that we
11:36:02 10 anticipate --

11:36:02 11 THE COURT: How long have you had the 302s?

11:36:05 12 MR. CHRIS FLOOD: No, we don't.

11:36:06 13 THE COURT: You don't have the 302s?

11:36:08 14 MR. CHRIS FLOOD: We've only been provided the two
11:36:10 15 prior 302s that the government didn't give us.

11:36:12 16 THE COURT: Why are you entitled to the 302s?

11:36:16 17 MR. GARDNER: You got it from the government through
11:36:18 18 Mr. DeGeurin.

11:36:20 19 MR. CHRIS FLOOD: I'm not suggesting that I stole them
11:36:22 20 from the government. Mr. Gardner has made the tactical decision
11:36:27 21 not to supply us the 302s. We did have two of the 302s that this
11:36:31 22 witness provided through previous counsel. I think in light of
11:36:35 23 his --

11:36:36 24 THE COURT: On what basis do you get the 302s?

11:36:39 25 MR. CHRIS FLOOD: Well, I think we're entitled to the

11:36:40 1 302s to determine what prior statements the witnesses made to
11:36:44 2 government officials.

11:36:44 3 THE COURT: You're talking about Jencks? He hasn't
11:36:47 4 adopted them.

11:36:48 5 MR. CHRIS FLOOD: I know he hadn't adopted them but --

11:36:50 6 THE COURT: Isn't that what's required for Jencks?

11:36:53 7 MR. CHRIS FLOOD: Well, it's reports in this case -- we
11:36:55 8 believe it's reports of inconsistent statements. This is
11:36:59 9 Brady-Giglio at this point, your Honor.

11:37:01 10 THE COURT: Not at this point.

11:37:05 11 MR. CHRIS FLOOD: In his three days of debriefings, he
11:37:08 12 did not state the evidence that he said in this courtroom the
11:37:12 13 last two days, and I think it would be Brady-Giglio, your Honor.
11:37:16 14 He testified that he told them the whole truth back then and I
11:37:19 15 think -- with all due respect to Mr. Gardner, I don't think he
11:37:24 16 and I share the same views on what Brady-Giglio requires.

11:37:28 17 And so, what I'd ask is that the 302s, if they're not
11:37:31 18 going to be turned over, the 302s of this witness, any prior
11:37:34 19 statements of this witness be made available to the Court for
11:37:39 20 in-camera review, and if it contains Brady or Giglio material,
11:37:43 21 that it be turned over.

11:37:44 22 THE COURT: You've got them for me?

11:37:48 23 MR. GARDNER: I do, your Honor.

11:37:49 24 THE COURT: Just in case I run out of something to do.

11:37:53 25 MR. CHRIS FLOOD: And just to be clear, your Honor, I

11:37:54 1 think it would include all 302s relating to this witness.

11:37:57 2 MR. GARDNER: Your Honor, this is the disc. I have not
11:37:59 3 marked it. I assume the Court wants to mark it. We ask that it
11:38:02 4 be marked a sealed exhibit. It's all the reports of Special
11:38:06 5 Agent Lawson.

11:38:06 6 THE COURT: All right. 302s.

11:38:11 7 MR. CHRIS FLOOD: Your Honor, the only other thing I
11:38:13 8 would ask is if Agent Lawson was not present during the initial
11:38:17 9 interviews of this witness but other government agents were, I'd
11:38:21 10 ask that those also be made part of the record on appeal.

11:38:27 11 THE COURT: Do you have --

11:38:29 12 MR. GARDNER: I have no idea who the other witnesses
11:38:30 13 were, your Honor, or the other agents that have talked to this
11:38:34 14 witness.

11:38:34 15 THE COURT: Do you have them?

11:38:35 16 MR. GARDNER: I do not have them.

11:38:36 17 THE COURT: Have you reviewed them in any way?

11:38:37 18 MR. GARDNER: No, sir.

11:38:38 19 THE COURT: So what do you want from him? What do you
11:38:41 20 want me to do?

11:38:41 21 MR. CHRIS FLOOD: I think he can inquire of the agents
11:38:44 22 that were handling the Eastern District case for all their case
11:38:46 23 reports. Certainly I'm like a needle in a haystack if I go
11:38:51 24 looking for them. You know how much cooperation I would get
11:38:54 25 there. There's only one government, your Honor, and it's this

11:38:56 1 gentleman right here. And --

11:38:58 2 THE COURT: All right. What do you want? Do you want
11:39:02 3 me to ask them to look for 302s from the March three-day
11:39:07 4 interview? Is that what you want me to ask them to do?

11:39:11 5 MR. CHRIS FLOOD: Your Honor, I think all of the 302s,
11:39:14 6 prior statements by this witness to the government are -- should
11:39:18 7 be made available to you for your in-camera review and includes
11:39:23 8 information that's Brady and Giglio should be turned over.

11:39:26 9 THE COURT: Fishing expedition to me, but do you have
11:39:29 10 the 302s?

11:39:30 11 MR. GARDNER: Only 302s I have, your Honor, are made by
11:39:32 12 my case agents in this case. I do not have the 302s from any
11:39:37 13 other agent who has interviewed Mr. Cuellar. I have not seen --

11:39:41 14 THE COURT: Are they obtainable?

11:39:43 15 MR. GARDNER: I don't know, your Honor. I know one DEA
11:39:45 16 who interviewed Mr. Cuellar.

11:39:51 17 THE COURT: See if you can find it. If you can, get a
11:39:54 18 copy and I'll look at that, too.

11:39:56 19 MR. GARDNER: Yes, sir.

11:39:57 20 THE COURT: All right. I'm reading a very good book.
11:40:00 21 I hate to spend my time doing this. But all right. Anything
11:40:03 22 else?

11:40:07 23 MR. CHRIS FLOOD: Your Honor, only thing I would ask --
11:40:09 24 and I may have already said it -- I would like that they be made
11:40:11 25 a part of the record on appeal, in the event they're not --

11:40:15 1 THE COURT: I will review them and I will put them
11:40:17 2 under seal and hand them to the courtroom deputy to put them in
11:40:21 3 the record.

11:40:22 4 MR. CHRIS FLOOD: Or turn them over to us.

11:40:26 5 THE COURT: No. I don't think so. Now what else? Now
11:40:28 6 can we let the witness go?

11:40:30 7 MR. CHRIS FLOOD: Yes, your Honor.

11:40:30 8 THE COURT: I'm trying to accommodate the marshals
11:40:32 9 here. You're free to go. Thank you. Thank you, marshals.

11:40:37 10 All right. Now what?

11:40:39 11 MR. GARDNER: Your Honor, I'm just inquiring as to
11:40:40 12 whether Mr. Flood wants to do the same offer of proof with
11:40:45 13 respect to Hector Moreno.

11:40:47 14 THE COURT: He says he doesn't know yet. What else?
11:41:05 15 All right. See you guys at 12:30.

12:31:37 16 (Lunch recess.)

12:32:48 17 THE COURT: Okay. Anything before we bring the jury
12:32:50 18 in?

12:32:51 19 MR. GARDNER: Nothing from the government, your Honor.

12:32:52 20 THE COURT: Bring them in, please.

12:32:55 21 (Jury present.)

12:34:37 22 THE COURT: Call your next witness.

12:34:40 23 MR. GARDNER: Thank you, your Honor. The government
12:34:42 24 calls Hector Moreno.

12:34:56 25 (Witness sworn through interpreter.)

12:35:35 1 MR. GARDNER: May I proceed, your Honor?

12:35:37 2 THE COURT: You may.

12:35:38 3 HECTOR MORENO, called by the Government, duly sworn.

12:35:38 4 DIRECT EXAMINATION

12:35:38 5 BY MR. GARDNER:

12:35:39 6 Q. Mr. Moreno, the jury has heard your name before, but could
12:35:41 7 you please turn and introduce yourself to them and tell them
12:35:45 8 little bit about how old you are?

12:35:57 9 A. My name is Hector Moreno. I'm 39 years old.

12:36:00 10 Q. And where were you born, sir?

12:36:05 11 A. In Mexico, in state of Coahuila.

12:36:10 12 Q. Now, Mr. Moreno, the jury has heard a lot about the drug
12:36:14 13 movement from the United States to Mexico and the money back from
12:36:18 14 the United States into Mexico. Do you know Alfonso Cuellar?

12:36:33 15 A. Yes.

12:36:33 16 Q. And who is he, sir?

12:36:38 17 A. He was my boss in Mexico.

12:36:40 18 Q. And do you know Jose Vasquez, Jr.?

12:36:49 19 A. Yes. He was our client in the U.S. in Dallas.

12:36:53 20 Q. And who would do most of the contact with Jose Vasquez, Jr.
12:37:00 21 in Dallas, you or Cuellar?

12:37:04 22 A. Me.

12:37:06 23 Q. At what point did you come into the United States?

12:37:16 24 A. End of March 2011.

12:37:18 25 Q. Why did you come to the United States?

12:37:26 1 A. Because I was going to be killed in Mexico.

12:37:29 2 Q. And the jury's heard some of that. Now, before coming
12:37:32 3 across, did you contact an attorney here in the United States?

12:37:41 4 A. Yes.

12:37:43 5 Q. And like Mr. Cessa here has his attorneys, is Mr. Perez --
12:37:53 6 is that your attorney?

12:37:53 7 A. Yes.

12:37:54 8 Q. And has he guided you through the criminal justice system
12:38:01 9 here in the United States?

12:38:03 10 A. Yes.

12:38:03 11 Q. And are you currently facing charges in the Eastern District
12:38:07 12 of Texas in Plano?

12:38:14 13 A. Yes.

12:38:15 14 Q. And what are those charges for?

12:38:24 15 A. Trafficking cocaine and money.

12:38:27 16 Q. Have you been sentenced on those charges yet?

12:38:32 17 A. No.

12:38:33 18 Q. Have you entered a plea or elected to go to trial at this
12:38:44 19 point?

12:38:44 20 A. No.

12:38:45 21 Q. And have you been cooperating not only with me in this case
12:38:49 22 but also with the Eastern District of Texas folks in their cases?

12:39:01 23 A. Yes.

12:39:02 24 Q. And what is your current immigration status, sir?

12:39:08 25 A. I have a work permit.

12:39:10 1 Q. That requires you to work here in the United States to
12:39:13 2 maintain that permit?

12:39:17 3 A. Yes.

12:39:18 4 Q. So what is your hope today in exchange for your testimony?

12:39:32 5 A. Cooperating and shorten my sentence.

12:39:36 6 Q. And you know that only I could make a recommendation up to
12:39:39 7 Ernest Gonzalez, the prosecutor in Plano. I have no ability to
12:39:43 8 affect your charges. Do you understand that?

12:39:55 9 A. Yes.

12:39:56 10 Q. Was that the same promise I made to you when you testified
12:40:00 11 here previously back in 2012?

12:40:09 12 A. Yes.

12:40:12 13 Q. Could we please bring up 250A? Put them side-by-side with
12:40:18 14 250B. Sir, do you recognize those two individuals?

12:40:37 15 A. Yes.

12:40:37 16 Q. And the one on the left, who is that?

12:40:41 17 A. Miguel Trevino, Zeta 40.

12:40:47 18 Q. And the gentleman on his right, who is that?

12:40:52 19 A. Omar Trevino, Zeta 42.

12:40:56 20 Q. So while you were working for Mr. Cuellar in Mexico, how
12:41:00 21 often would you see these two?

12:41:29 22 A. Once a month, but it would vary. It was different. There
12:41:33 23 was a lot of work once a week. If there were the horse races,
12:41:37 24 every day. If there was auctions, we would be three or four days
12:41:42 25 watching the auctions.

12:41:44 1 Q. When you say auction, is that the horse auctions?

12:41:49 2 A. Yes.

12:41:50 3 Q. Were you aware if "40" or "42" sent drug proceeds into the
12:41:57 4 United States for the purpose of these auctions?

12:42:09 5 A. Yes.

12:42:09 6 Q. And how did you become aware of that, sending that money to
12:42:16 7 the U.S.?

12:42:21 8 A. Because Poncho had me make several payments for horses here
12:42:29 9 in the U.S.

12:42:31 10 Q. So how did that happen? How did you send money from the
12:42:37 11 drugs into the United States?

12:43:00 12 A. I would get the money from "Cuno," who was "40" and "42's"
12:43:12 13 accountant. He would make the payments. He would get the money
12:43:15 14 to some exchange houses in Nuevo Laredo and Monterrey. So that
12:43:21 15 the money could be used -- so that people could send the money
12:43:28 16 in.

12:43:29 17 Q. When you say Ramiro Villarreal, I think you said that. Have
12:43:33 18 you met Ramiro Villarreal?

12:43:39 19 A. Yeah. I saw him several times on "40's" ranch and then, I
12:43:59 20 saw him in Piedras Negras. And I saw him once in Allende with
12:44:04 21 Jose Trevino that they were going to -- they were working on some
12:44:08 22 kind of agreement regarding the Los Alamitos race.

12:44:13 23 Q. Could you pull up 250C? Do you recognize this individual?

12:44:32 24 A. Yes. That's the brother. That's "40's" brother, Jose
12:44:36 25 Trevino.

12:44:38 1 Q. And do you know of a horse named Tempting Dash?

12:44:44 2 A. Yes.

12:44:46 3 Q. And whose horse was that?

12:44:51 4 A. "Forty's."

12:44:53 5 Q. Were you aware if that horse raced in Mexico?

12:44:58 6 A. Yes, under the name Huesos.

12:45:03 7 Q. In Spanish, Huesos means bones; is that correct?

12:45:07 8 A. Yes.

12:45:08 9 Q. And so, when did -- to your knowledge, did the name get

12:45:13 10 changed to Tempting Dash?

12:45:22 11 A. When he started running here in the United States.

12:45:25 12 Q. And even though you said that was "40's" horse, did that

12:45:30 13 horse Tempting Dash run under a different name in the United

12:45:41 14 States?

12:45:41 15 A. In the beginning, it ran under Ramiro Villarreal-Guajardo's

12:45:57 16 name, and when he started doing well, it was switched to Jose

12:46:02 17 Trevino's name.

12:46:03 18 Q. And were you present during that discussion that "40" talked

12:46:06 19 about turning it into his brother's name?

12:46:15 20 A. Yes.

12:46:16 21 Q. Other than Tempting Dash, how many horses did "40" purchase

12:46:21 22 in the United States, let's say, in 2008?

12:46:40 23 A. He bought a bunch. That's when I first met him and that's

12:46:46 24 when he bought a bunch of them. He bought a ranch in Piedras

12:46:50 25 Negras, and he took about 30 horses there.

12:46:52 1 Q. I'm sorry. You said Ramiro or "40"? I'm sorry.

12:47:00 2 A. No. "Forty."

12:47:02 3 Q. Could you please bring up 250N? Who is this gentleman?

12:47:14 4 A. Ramiro.

12:47:15 5 Q. I believe you said or testified that he was the one

12:47:19 6 initially doing the purchases through a, possibly, casa cambio in

12:47:27 7 Monterrey. Is that your testimony?

12:47:35 8 A. Yes.

12:47:37 9 Q. At some point, did Ramiro Villarreal stop being involved in

12:47:41 10 the purchase of horses?

12:47:58 11 A. Not that I know. Well, towards the end, he had some trouble

12:48:01 12 with the brother. There was some kind of jealousy, and he ended

12:48:05 13 up having trouble with the brother.

12:48:06 14 Q. When you say the brother, is that Jose Trevino?

12:48:10 15 A. Yes.

12:48:11 16 Q. This "42," Omar Trevino also a brother?

12:48:20 17 A. Yes.

12:48:21 18 Q. So after Ramiro stopped becoming involved, did they have

12:48:27 19 another person that became involved in buying horses in the

12:48:37 20 United States?

12:48:37 21 A. Carlos, Carlos Nayan.

12:48:39 22 Q. Could we have 250E, please? Is this the person you know as

12:48:46 23 Carlos Nayan?

12:48:47 24 A. Yes.

12:48:48 25 Q. And how did you first meet him?

12:48:53 1 A. Well, at first, he was bringing horses from the stable of

12:49:10 2 Flor de Maria, and then, he started buying horses for "40."

12:49:14 3 Q. When you say the stable Flor de Maria, do you know who the

12:49:19 4 owner of that stable was?

12:49:27 5 A. I didn't know who the owner was until later.

12:49:32 6 Q. When did you learn who the owner was?

12:49:49 7 A. Once he started -- Carlos started working directly for "40,"

12:50:01 8 he said that his dad had also bought a lot of horses, and then,

12:50:04 9 they started running the colts to see how they would race.

12:50:09 10 Q. So Carlos Nayen said his dad.

12:50:18 11 A. Yes. That's what he called Francisco Colorado.

12:50:23 12 Q. So were you present in Mexico during the course of any of

12:50:27 13 these auctions?

12:50:40 14 A. Yeah. I was present in Mexico watching the auction on the

12:50:46 15 computer.

12:50:46 16 Q. And did you observe "40" and -- I'm sorry, "40" and Carlos

12:50:51 17 Nayen were communicating during these auctions?

12:50:56 18 A. Yeah. Via Blackberry.

12:51:00 19 Q. And do you know what the communications were?

12:51:15 20 A. That we should buy a horse, whatever the cost, have the

12:51:19 21 horses been X-rayed, how many horses were they going to buy, that

12:51:23 22 type.

12:51:24 23 Q. And do you know approximately how many horses "40" or "42"

12:51:29 24 bought in 2009?

12:51:46 25 A. Yeah. They bought a lot of horses, way too many horses.

12:51:54 1 One of the first horses that over half a million dollars they
12:51:58 2 bought.

12:52:03 3 Q. Are you familiar with a horse called Mr. Piloto?

12:52:10 4 A. Yes.

12:52:10 5 Q. Have you seen the All American Futurity in 2010 involving
12:52:15 6 that horse?

12:52:24 7 A. I saw it several, many times.

12:52:26 8 Q. Is the All American Futurity the largest quarter horse race
12:52:31 9 in the United States?

12:52:37 10 A. Yes.

12:52:38 11 Q. And do you know how much the winning purse is for that race?

12:52:45 12 A. A million dollars.

12:52:46 13 Q. Did you personally have any involvement in sending money to
12:52:52 14 Ruidoso for that race?

12:53:05 15 THE INTERPRETER: Interpreter's going to ask for
12:53:07 16 repetition.

12:53:10 17 A. Yes. I said \$110,000.

12:53:13 18 Q. (BY MR. GARDNER) And who did you receive your instructions
12:53:15 19 from?

12:53:19 20 A. Poncho.

12:53:20 21 Q. And were you present when "40" gave those instructions to
12:53:23 22 Poncho?

12:53:32 23 A. Yes. He received the message from Carlos and then, I heard
12:53:35 24 him tell Poncho.

12:53:36 25 Q. And what were you told either through Poncho or "40" about

12:53:41 1 the money you're supposed to send?

12:53:52 2 A. That I should send \$110,000 to Ruidoso.

12:53:55 3 Q. And do you know what the purpose of that money was for?

12:54:07 4 A. It was to pay \$10,000 to each one of the gate handlers,
12:54:12 5 gatekeepers, and 10,000 to the handler.

12:54:18 6 Q. Did that money come from Mexico, or did it come from Jose
12:54:24 7 Vasquez?

12:54:32 8 A. By way of Jose Vasquez.

12:54:34 9 Q. So approximately how many times do you recall giving Mr.
12:54:40 10 Vasquez instructions to pay for horse-related expenses?

12:54:55 11 A. There was several times I paid for a mare in Oklahoma. I
12:55:22 12 sent several payments to Lone Star in Dallas for the
12:55:26 13 registrations. I don't know what else.

12:55:29 14 Q. Could I have one moment, your Honor?

12:55:31 15 THE COURT: You may.

12:55:34 16 Q. (BY MR. GARDNER) At some point, did you stop using Jose
12:55:39 17 Vasquez, Jr. to pay the horse expenses?

12:55:53 18 A. We just paid one 200,000 and -- for 200,000 and then, I told
12:56:08 19 Poncho that we could not. We had to quit paying for the horses
12:56:11 20 because they were going to start looking at Jose Vasquez because
12:56:15 21 he was paying in cash.

12:56:16 22 Q. Do you know an individual by the name of "Yo Yo"?

12:56:21 23 A. Yes.

12:56:24 24 MR. GARDNER: Katherine, is 250Z in? I just want to
12:56:27 25 make sure.

12:56:30 1 MS. WALLACE: Not yet.

12:56:32 2 MR. GARDNER: Not yet.

12:56:36 3 Q. (BY MR. GARDNER) Mr. Moreno, I'm going to show you two pages
12:56:44 4 while I'm up here. One is Government's Exhibit 250Z. Do you
12:56:47 5 recognize that, sir?

12:56:54 6 A. Yes. That's "Yo Yo."

12:56:58 7 Q. And I'm showing you Government's Exhibit 210. Do you
12:57:03 8 recognize that, sir? There's an official translation on the back
12:57:05 9 of it.

12:57:18 10 A. Yes. Those are the sheets that either Carlos, "Yo Yo," or
12:57:32 11 Poncho would give me so that I could pay the expenses for the
12:57:38 12 horses, and then, I would give those to Carlos or "Yo Yo" for the
12:57:44 13 money to pay them.

12:57:48 14 MR. GARDNER: Your Honor, I offer Government's Exhibit
12:57:50 15 250Z.

12:57:52 16 MR. CHRIS FLOOD: I have no objection, your Honor.

12:57:54 17 THE COURT: Without objection, 250Z is received.

12:58:00 18 MR. GARDNER: Could we pull 250Z?

12:58:02 19 Q. (BY MR. GARDNER) Mr. Moreno, is this the individual you
12:58:04 20 identified as "Yo Yo"?

12:58:08 21 A. Yes.

12:58:09 22 Q. And who did "Yo Yo" work for?

12:58:14 23 A. For Carlos.

12:58:17 24 Q. And was this the individual you just testified to that you
12:58:21 25 started sending the expenses through rather than Jose Vasquez,

12:58:24 1 Jr.?

12:58:29 2 A. Yes.

12:58:34 3 Q. Your Honor, I'd also offer Government's Exhibit 210.

12:58:38 4 MR. CHRIS FLOOD: No objection, your Honor.

12:58:40 5 THE COURT: Without objection, it is received.

12:58:45 6 MR. GARDNER: Could we please bring up 210?

12:58:50 7 Q. (BY MR. GARDNER) Could you please explain to the jury what
12:58:55 8 this is?

12:59:15 9 A. These are the expenses that they had in Austin, Ruidoso, Los
12:59:21 10 Angeles for food, for the jockeys, for the trainers, for the
12:59:25 11 feed, all of their expenses.

12:59:27 12 Q. All right. And, sir, you don't read -- or do you read
12:59:31 13 English is probably a better question?

12:59:32 14 A. No.

12:59:33 15 Q. So the translation attached to this, that's certified by the
12:59:39 16 translator and not prepared by you?

12:59:57 17 A. I turned in the pages. I had copies in Spanish.

13:00:01 18 Q. And so, when this says up at the top here, 1 December -- or
13:00:08 19 says Diciembre, did you get these things on a monthly basis?

13:00:26 20 A. Yes. Every time that Carlos or "Yo Yo" would go to Piedras
13:00:33 21 Negras, they would take one of these, and then, "40" or "42"
13:00:36 22 would authorize it and Carlos would pay it.

13:00:38 23 Q. And so, at least for this particular month, do you know a
13:00:41 24 year this was?

13:00:48 25 A. 2010.

13:00:50 1 Q. And so, was that figure down there, does that represent
13:00:56 2 dollars or pesos?

13:01:01 3 A. Dollars.

13:01:03 4 Q. And when you said that you would pay "Yo Yo" or Carlos
13:01:08 5 Nayan, what would you pay them with?

13:01:22 6 A. The bills that Jose Vasquez would send me, the money that
13:01:25 7 Jose Vasquez would send me.

13:01:28 8 Q. So money from drugs?

13:01:30 9 A. Yes.

13:01:31 10 Q. Now, some of the horses that "40" would buy, you said he put
13:01:45 11 them in his brother's name. Do you know of any other names that
13:01:50 12 "40" put his horses in?

13:02:14 13 A. Yes. He put them in several names, but I don't remember
13:02:18 14 them right now.

13:02:19 15 Q. Do you remember he put horses in the names of fake
13:02:24 16 companies?

13:02:38 17 A. Yes. There were several companies. I gave him the names
13:02:45 18 when I got here, but it's been four years. I don't remember them
13:02:48 19 now.

13:02:49 20 Q. But were those names of those companies, were they real
13:02:54 21 companies?

13:02:57 22 A. I don't think they were real.

13:03:09 23 Q. And you mentioned before, you would watch the auctions with
13:03:14 24 some of the races on the internet.

13:03:22 25 A. That's right.

13:03:23 1 Q. How do you log into the internet to watch the races?

13:03:45 2 A. We would send a user name and the password. The use name
13:03:51 3 was ADT Petro Servicios at, I don't remember what, and the
13:03:55 4 password was Francisco Colorado.

13:03:58 5 Q. Have you ever met the Defendant Pancho Colorado?

13:04:07 6 A. I saw him at some races in Morelos, Coahuila.

13:04:12 7 Q. And do you know what Pancho Colorado, the defendant, does
13:04:17 8 for a living or did for a living?

13:04:29 9 A. Pancho mentioned once that he had oil concessions.

13:04:35 10 Q. Do you remember the name of his company or if it was ever
13:04:37 11 told to you?

13:04:43 12 A. ADT Petro Servicios.

13:04:47 13 Q. Was that the same name that you put in as a user name on the
13:04:51 14 internet race site?

13:04:57 15 A. Yes.

13:04:57 16 Q. Do you know where you got that password from?

13:05:05 17 A. It was sent to "40" on a Blackberry message. He showed it
13:05:19 18 to me so that I could type it into the computer.

13:05:24 19 Q. Do you remember you said you met the defendant at a race in,
13:05:29 20 I believe, Morelos. Is that your testimony?

13:05:38 21 A. Yes.

13:05:39 22 Q. Do you remember the name of the place or the racetrack that
13:05:43 23 you actually attended?

13:05:51 24 A. The La Ilusion Ranch.

13:05:55 25 Q. And do you know the owner of that ranch?

13:06:00 1 A. Remberto Castro.

13:06:02 2 Q. And who is Mr. Castro?

13:06:13 3 A. He was the owner of the ranch and he was -- something to do
13:06:20 4 with politics in Morelos.

13:06:23 5 Q. Was this race in Morelos La Ilusion Ranch, was it a private
13:06:31 6 race or a public race?

13:06:38 7 A. It was private.

13:06:40 8 Q. And about how many races happened that day?

13:06:49 9 A. It was five or six. It had been all the yearlings and
13:07:19 10 two-year-olds that they bought the year before. It happened in
13:07:21 11 February or March and they were just testing them out. And it
13:07:25 12 was "40's" and "42's" and Poncho's, and Carlos had Colorado
13:07:34 13 there.

13:07:34 14 Q. Horses for Colorado?

13:07:36 15 A. Yes.

13:07:36 16 Q. And how long did this race or these sets of races last?

13:07:45 17 A. Four or five hours.

13:07:47 18 Q. Do you remember what the defendant was wearing?

13:08:00 19 A. He had a -- like a red shirt on that had palm trees, or
13:08:08 20 something like that, and he was smoking a cigar.

13:08:11 21 Q. And where was he during the course of this four years in
13:08:14 22 relation to "40"?

13:08:26 23 A. Along with "40," "42," "Mamito," Carlos.

13:08:32 24 Q. And what was his demeanor during this whole race?

13:08:42 25 A. Normal. Normal. There was grilled meat, there was wine,

13:08:53 1 everything was normal.

13:08:55 2 Q. Was there security at this race?

13:09:02 3 A. A lot of security. All of "40," "42's," "Mamito's" escorts.

13:09:10 4 Q. And do you know if the defendant ever did horse business
13:09:15 5 with "40"?

13:09:22 6 MR. CHRIS FLOOD: Objection. Lack of personal
13:09:23 7 knowledge.

13:09:28 8 THE COURT: Do you know?

13:09:47 9 A. Carlos Nayen said that if --

13:09:50 10 MR. CHRIS FLOOD: My objection was lack of personal
13:09:52 11 knowledge.

13:09:56 12 MR. GARDNER: Can I break it up, your Honor?

13:09:58 13 THE COURT: Yes.

13:09:59 14 Q. (BY MR. GARDNER) We've got to go through a process, Mr.

13:10:03 15 Moreno. So first question is, did you personally know if "40"

13:10:08 16 and Colorado did horse business together?

13:10:21 17 A. No.

13:10:22 18 Q. Okay. Did you hear other people talk about "40" and Pancho
13:10:29 19 Colorado's horse business?

13:10:31 20 MR. CHRIS FLOOD: Objection. Hearsay, your Honor.

13:10:33 21 THE COURT: Well, that's -- you may answer that
13:10:42 22 question. Go ahead.

13:10:43 23 A. Yes. At a house in Nava.

13:10:46 24 Q. (BY MR. GARDNER) And who -- without telling me what they
13:10:50 25 said, who provided that information?

13:11:01 1 A. Carlos Nayan and "40."

13:11:07 2 Q. So you overheard "40" and Carlos Nayan talking about a horse
13:11:12 3 business involving Pancho Colorado?

13:11:25 4 A. That he was going to pay for them.

13:11:28 5 Q. What manner was Pancho Colorado going to pay for the horses?

13:11:36 6 MR. CHRIS FLOOD: Objection. Hearsay, your Honor.

13:11:39 7 THE COURT: Overruled.

13:11:41 8 Q. (BY MR. GARDNER) You may answer the --

13:11:43 9 A. I don't.

13:11:43 10 Q. I guess try a better question is, could you let the jury
13:11:46 11 know exactly what was said between "40" and Carlos Nayan?

13:11:51 12 MR. CHRIS FLOOD: Objection. Hearsay, your Honor. And
13:11:53 13 I'd like a continuing objection to this conversation. Alleged
13:11:58 14 conversation.

13:11:58 15 THE COURT: I won't give you the continuing, but I will
13:12:00 16 overrule on the basis that it's offered merely for what was said,
13:12:07 17 not for the truth thereof.

13:12:33 18 A. But how were they going to pay for everything "Pelos" --
13:12:37 19 that's what he called Carlos -- had spent, and that Carlos said
13:12:40 20 no problem, I've already talked to my dad, Pancho Colorado.

13:12:45 21 Q. (BY MR. GARDNER) Let's talk about the September 2010 auction
13:12:53 22 at Ruidoso. Did the Zetas buy horses at that auction?

13:13:08 23 A. Lots. Lots of horses. Lots of mares.

13:13:10 24 Q. Do you remember how much was spent on behalf of "40" and the
13:13:14 25 Zetas at that auction?

13:13:30 1 A. I have an idea, but Carlos showed up with the horse that he
13:13:37 2 had bought more horses -- he'd been the one that bought more
13:13:41 3 horses at those auctions.

13:13:42 4 Q. And when you say showed up, was that a meeting where you
13:13:45 5 were present between Carlos and "40"?

13:13:54 6 A. Yes.

13:13:55 7 Q. And did you see him and Carlos paying "40" for anything?

13:14:09 8 A. He handed them -- it was like a horse and then, a belt
13:14:12 9 buckle from when Piloto had won.

13:14:21 10 Q. May I have one second, your Honor?

13:14:32 11 Did "40" ever tell you why he used his money to buy
13:14:44 12 horses in the U.S.?

13:14:47 13 A. Because it was a very easy way to launder the money and it
13:14:54 14 cleaned it up very well.

13:14:56 15 Q. May I have one second, your Honor?

13:14:59 16 THE COURT: Yes.

13:15:04 17 MR. GARDNER: Your Honor, I'll pass the witness.

13:15:05 18 THE COURT: Your witness, counsel.

13:15:14 19 CROSS-EXAMINATION

13:15:14 20 BY MR. CHRIS FLOOD:

13:15:20 21 Q. So, Mr. Moreno, you worked for Mr. Cuellar?

13:15:26 22 A. Yes.

13:15:27 23 Q. And would it be your responsibility to get the money that
13:15:34 24 was in Dallas from Mr. Vasquez down to Mr. Cuellar?

13:15:48 25 A. Yes.

13:15:49 1 Q. And it was Mr. Nayan's job at some point, I guess, to pay
13:15:57 2 for the horse expenses.

13:16:06 3 A. Yes.

13:16:09 4 Q. And I think -- could I have 210 back up? You remember
13:16:35 5 testifying earlier about Government's Exhibit No. 210?

13:16:45 6 A. Yes.

13:16:46 7 Q. And if I remember correctly, this is a list of expenses that
13:16:54 8 were related to the horses?

13:17:03 9 A. Yes.

13:17:04 10 Q. But these weren't all the expenses for the entire time that
13:17:10 11 Carlos Nayan was in charge of collecting the money, right?

13:17:13 12 A. No. It was each month.

13:17:27 13 Q. By the way, how many times have you testified for the
13:17:32 14 government before today?

13:17:42 15 A. Twice.

13:17:45 16 Q. And how often would these expenses be put together, I guess,
13:17:52 17 by Carlos Nayan and his people and delivered to you or Cuellar
13:17:59 18 for payment?

13:18:11 19 A. Monthly.

13:18:12 20 Q. Monthly. And they weren't always typed. I guess sometimes
13:18:17 21 they'd be handwritten.

13:18:22 22 A. No. All the ones I saw were handed to me like this.

13:18:31 23 Q. Okay. And you had dealings with "Yo Yo" as well as Mr.
13:18:36 24 Nayan, correct?

13:18:41 25 A. Yes.

13:18:42 1 Q. That was the gentleman that you identified a minute ago on
13:18:47 2 your direct testimony.

13:18:56 3 A. That "Yo Yo" and Carlos Nayan.

13:19:00 4 Q. And so, "Yo Yo" was like the right-hand man of Carlos Nayan.
13:19:06 5 Do you know what I mean by the term "right-hand man"?

13:19:14 6 A. Yes.

13:19:15 7 Q. And in addition to collecting expense or money for horse
13:19:21 8 expenses, "Yo Yo" also trafficked in cocaine with Carlos Nayan,
13:19:28 9 correct?

13:19:40 10 A. Yes.

13:19:41 11 Q. And "Yo Yo" and Nayan started trafficking small, at around
13:19:51 12 10 kilos of cocaine, but that went to 15 and 25 kilos soon
13:19:56 13 thereafter, correct?

13:20:08 14 A. Yes.

13:20:08 15 Q. Would you be able to recognize "Yo Yo's" handwriting?

13:20:16 16 A. No.

13:20:17 17 Q. Now, the horse race that you say you saw Mr. Colorado at,
13:20:39 18 that horse race was in Morelos; is that correct?

13:20:48 19 A. Yes.

13:20:49 20 Q. And it's at the La Ilusion track?

13:20:56 21 A. Yes.

13:20:56 22 Q. And Mr. Cuellar was also there, correct?

13:21:04 23 A. Yes.

13:21:05 24 Q. And there were other horse owners at the track, as well, not
13:21:08 25 just "40" and "42."

13:21:18 1 A. Yes, and Chenso, who was "42's" right-hand man.

13:21:28 2 Q. Right. But was it a public track?

13:21:32 3 A. Yes.

13:21:33 4 Q. So there was not just the Zetas there. There were other

13:21:38 5 people that were racing horses there, as well.

13:21:46 6 A. No. It is a public track, but on that occasion, it was

13:22:00 7 private. It was just them.

13:22:02 8 Q. All right. So there were no other horse owners present at

13:22:05 9 the track.

13:22:15 10 A. Drug dealers that owned horses.

13:22:17 11 Q. Okay. So only drug dealers, not other horse owners.

13:22:23 12 A. That's correct.

13:22:29 13 Q. And that was the only occasion you ever saw Mr. Colorado.

13:22:40 14 A. That's correct.

13:22:41 15 Q. As far as the access to the internet that you testified

13:22:49 16 about earlier, I believe you said that "40" obtained the access

13:22:57 17 code off of his Blackberry, correct?

13:23:09 18 A. Yes. Message had been sent.

13:23:15 19 Q. And Carlos Nayan would communicate with "40" on his

13:23:20 20 Blackberry quite a bit?

13:23:25 21 A. Yes.

13:23:26 22 Q. And if Carlos Nayan worked for Mr. Colorado and his horse

13:23:32 23 operations and had that password, do you know if it was Mr. Nayan

13:23:36 24 that actually gave the password to access the internet to "40"?

13:23:55 25 A. It may have been Carlos Nayan.

13:23:58 1 Q. And the conversation that you testified that happened at the
13:24:05 2 house at Nava, do you remember that testimony?

13:24:08 3 A. Yes.

13:24:16 4 Q. That was you, "40" and Nayen, correct?

13:24:27 5 A. "Forty," "42," me, Poncho, and Carlos -- Commander Carlitos,
13:24:44 6 also.

13:24:44 7 Q. Poncho? Which Poncho? Poncho Cuellar?

13:24:52 8 A. Poncho Cuellar.

13:24:54 9 Q. Not Mr. Colorado was not there?

13:24:55 10 A. No.

13:24:56 11 Q. And it was at that meeting that you heard "40" say, well,
13:25:02 12 how are we going to pay for these horses, right?

13:25:09 13 A. That's right.

13:25:11 14 Q. And it was Nayen that said, don't worry, I've already talked
13:25:14 15 to my dad about it, right?

13:25:21 16 A. That's right.

13:25:34 17 Q. Do you know if "Yo Yo" would threaten people for Nayen to
13:25:45 18 make payments?

13:25:53 19 A. No.

13:25:54 20 Q. Do you know Alfonso Del Rayo?

13:26:00 21 A. No.

13:26:03 22 Q. Now, how many times have you met with the government prior
13:26:20 23 to your testimony here today?

13:26:23 24 A. What do you mean, about this?

13:26:38 25 Q. Yes. About the things that you just testified to before

13:26:43 1 this jury. How many times did you meet with the government to
13:26:46 2 discuss this matter?

13:26:58 3 A. Once yesterday.

13:27:02 4 Q. That's the only time?

13:27:12 5 A. And recently, one time when I was received and then,
13:27:16 6 yesterday, once.

13:27:17 7 Q. Okay. So yesterday is one time and when's the other time?

13:27:25 8 A. Today.

13:27:27 9 Q. So yesterday and today?

13:27:31 10 A. Yes.

13:27:32 11 Q. If I may have one minute, your Honor.

13:27:53 12 THE COURT: Yes.

13:28:01 13 Q. (BY MR. CHRIS FLOOD) Let me just ask one more question.

13:28:04 14 You're pending sentencing and the charge that you pled
13:28:08 15 guilty to.

13:28:19 16 A. Sorry?

13:28:21 17 Q. Have you pled guilty to charges?

13:28:30 18 A. No.

13:28:31 19 Q. Okay. So you told the government about your criminal
13:28:37 20 activity, but you've not been charged?

13:28:49 21 A. Yes.

13:28:50 22 Q. And is it your agreement with them that if you testify and
13:28:56 23 provide testimony that is truthful, that you will not be charged?

13:29:11 24 A. Yes.

13:29:13 25 Q. Do you have immunity from prosecution?

13:29:19 1 A. No. I have a hearing that's pending.

13:29:30 2 Q. Okay. Are you also charged out of Mexico?

13:29:37 3 A. Yes.

13:29:37 4 Q. What are you charged with in Mexico?

13:29:40 5 MR. GARDNER: Your Honor, object. Same objection.

13:29:42 6 THE COURT: What's the relevance?

13:29:43 7 MR. CHRIS FLOOD: To decide whether or not he
13:29:45 8 anticipates not being extradited on those charges, your Honor.

13:29:48 9 THE COURT: Well, just go ahead and ask him.

13:29:52 10 Q. (BY MR. CHRIS FLOOD) What are you charged with in Mexico?

13:29:55 11 THE COURT: No. Do you anticipate being extradited if
13:29:57 12 there are any charges in Mexico?

13:30:07 13 A. That's what is being asked for and that's what I'm fighting,
13:30:11 14 the extradition.

13:30:13 15 Q. (BY MR. CHRIS FLOOD) All right. And is it your
13:30:15 16 understanding that as long as you cooperate with the government,
13:30:19 17 you will not be extradited to Mexico?

13:30:28 18 A. Well, those charges were filed the day I came to testify
13:30:51 19 here, a year or two years ago, and the first thing they have to
13:30:57 20 do before anything else is prove that those charges are real.

13:31:01 21 Q. All right. Do you have an understanding -- first of all,
13:31:04 22 are you seeking to go into the Witness Protection Program?

13:31:14 23 A. No. I'm asking for asylum.

13:31:20 24 Q. But is it your understanding that as long as you testify in
13:31:27 25 a way that they believe it's truthful, you will not be prosecuted

13:31:32 1 and you will not be extradited?

13:31:36 2 A. Yes.

13:31:51 3 Q. I don't have any further questions, your Honor.

13:31:54 4 THE COURT: Redirect?

13:31:55 5 MR. GARDNER: Yes, your Honor.

13:31:58 6 RE-DIRECT EXAMINATION

13:31:58 7 BY MR. GARDNER:

13:31:58 8 Q. So when were those charges filed?

13:32:08 9 A. It was the day I came to testify here.

13:32:10 10 Q. You were already in the United States when those charges
13:32:12 11 were filed.

13:32:17 12 A. I'd been here more than a year.

13:32:19 13 Q. And where were those charges filed?

13:32:23 14 A. In Piedras Negras, Coahuila.

13:32:25 15 Q. Piedras Negras, Coahuila, a Zeta-controlled territory?

13:32:32 16 A. That's correct.

13:32:34 17 Q. In your experience in Mexico, if you pay enough money, you
13:32:39 18 can get anything done through the government?

13:32:41 19 MR. CHRIS FLOOD: Objection. Leading, your Honor.

13:32:47 20 THE COURT: As framed, it is. Sustained.

13:32:49 21 Q. (BY MR. GARDNER) Based on your experience in Mexico, can you
13:32:53 22 get anything done if you pay enough money?

13:33:04 23 A. That's correct.

13:33:06 24 Q. Did the Zetas -- again, based on your experience, did the
13:33:10 25 Zetas control the politicians and the police in Piedras Negras?

13:33:19 1 A. That's correct.

13:33:21 2 Q. And when you testified before, were you testifying against
13:33:26 3 "40's" brother?

13:33:32 4 A. Yes.

13:33:33 5 Q. Is that why you're seeking asylum here in the United States?

13:33:39 6 A. That's correct.

13:33:40 7 Q. That's all I have, your Honor.

13:33:42 8 THE COURT: All right.

13:33:43 9 MR. CHRIS FLOOD: Might I have --

13:33:45 10 THE COURT: Well, let's see.

13:33:46 11 MR. CHRIS FLOOD: I was going to show him the charges
13:33:47 12 to see if he's aware of the charges that he says they're
13:33:51 13 trumped-up charges out of Mexico, your Honor.

13:33:56 14 MR. GARDNER: Same objection, your Honor.

13:33:57 15 THE COURT: No. I don't think so.

13:33:58 16 MR. GARDNER: Okay.

13:34:00 17 THE COURT: No. We're not going there. You could have
13:34:02 18 asked that earlier.

13:34:03 19 MR. CHRIS FLOOD: Well, can I ask a couple of questions
13:34:05 20 about it?

13:34:06 21 THE COURT: Let's see.

13:34:07 22 RE-CROSS EXAMINATION

13:34:07 23 BY MR. CHRIS FLOOD:

13:34:08 24 Q. Is it your testimony, then, that the charges against you in
13:34:11 25 Mexico are false?

13:34:18 1 A. They're false. There are more than 300 deaths in Coahuila,
13:34:33 2 and there were no criminal complaints filed because the Zetas
13:34:36 3 would not permit it.

13:34:38 4 Q. Well, in fact, there was two criminal complaints filed
13:34:43 5 against you charging you with the deaths of --

13:34:45 6 MR. GARDNER: Your Honor, before the question even gets
13:34:47 7 out.

13:34:47 8 THE COURT: You may.

13:34:50 9 MR. CHRIS FLOOD: This is in response to his answer.

13:34:52 10 THE COURT: This is improper re-cross.

13:34:54 11 MR. CHRIS FLOOD: I'm sorry, your Honor?

13:34:55 12 THE COURT: Improper re-cross.

13:34:57 13 Q. (BY MR. CHRIS FLOOD) Did you just say there were 300 deaths
13:35:00 14 in the state of Coahuila and there are no criminal complaints
13:35:05 15 filed?

13:35:19 16 A. Yes. When Poncho and I came here to the United States, they
13:35:29 17 started killing all these innocent people, the family members,
13:35:32 18 tried to go file criminal complaints, and they were told there
13:35:36 19 would be none and they had 24 hours to leave town.

13:35:39 20 Q. Right. And then, you were charged by criminal complaint,
13:35:42 21 correct?

13:35:42 22 A. A year and a half later.

13:35:51 23 Q. I understand. But you were charged with crimes that alleged
13:35:55 24 to have occurred before you left Mexico and came here?

13:36:07 25 A. Yes.

13:36:08 1 Q. And you're accused --

13:36:10 2 THE COURT: I think we've exhausted this topic.

13:36:13 3 MR. CHRIS FLOOD: I'm sorry?

13:36:13 4 THE COURT: We have exhausted this topic. Do you have
13:36:17 5 something else?

13:36:18 6 Q. (BY MR. CHRIS FLOOD) You don't expect to be extradited for
13:36:21 7 those allegations in Mexico as long as you testify to the truth
13:36:25 8 that Mr. Gardner wants you to?

13:36:27 9 MR. GARDNER: We object to that being argumentative,
13:36:29 10 your Honor, and outside the bounds of re-cross.

13:36:30 11 THE COURT: Well, it's both those things. I think it's
13:36:34 12 also been answered.

13:36:36 13 MR. CHRIS FLOOD: I have no further questions, your
13:36:38 14 Honor.

13:36:38 15 MR. GARDNER: May this witness be excused, your Honor?

13:36:40 16 THE COURT: Is the witness excused? The witness is
13:36:43 17 excused. Thank you, sir. Call your next witness.

13:36:46 18 MR. GARDNER: Thank you, your Honor. The government
13:36:47 19 calls Mr. Raul Guadalajara-Guia.

13:37:43 20 (Witness sworn.)

13:37:49 21 MR. GARDNER: May I proceed, your Honor?

13:37:50 22 THE COURT: You may.

13:37:51 23 RAUL GUADALAJARA-GUIA, called by the Government, duly sworn.

13:37:51 24 DIRECT EXAMINATION

13:37:51 25 BY MR. GARDNER:

13:37:52 1 Q. Mr. Guadalajara, you and I met before. Good afternoon.

13:37:56 2 A. Good afternoon.

13:37:56 3 Q. Please introduce yourself to the jury and explain a little

13:37:59 4 bit about yourself, who you do for a living, and how old you are.

13:38:02 5 A. Okay. My name is Raul Guadalajara. I was born in San

13:38:06 6 Antonio, Texas. I'm 43 years old and I was raised in Mexico.

13:38:08 7 Q. And are you a U.S. citizen, sir?

13:38:10 8 A. Yes, sir. I was born in San Antonio.

13:38:12 9 Q. And you speak pretty good English, but you've requested to

13:38:18 10 have the interpreter there in case you need her, correct?

13:38:20 11 A. Yes. My first language is Spanish. I speak more Spanish

13:38:24 12 than English.

13:38:24 13 Q. So feel free at any time to have the question interpreted

13:38:27 14 and your answer interpreted back. Your choice.

13:38:30 15 A. Okay, sir. Yes.

13:38:32 16 Q. Sir, what charges are you currently in jail for?

13:38:37 17 A. For cocaine.

13:38:39 18 Q. And where is that out of?

13:38:41 19 A. Out of Piedras Negras, Coahuila. It was conspiracy.

13:38:47 20 Q. And are you part of what I'll call a crew?

13:38:52 21 A. Poncho Cuellar. I used to work for Poncho Cuellar.

13:38:57 22 Q. What did you do for Poncho Cuellar?

13:38:59 23 A. I would supervise all the kilos I would get through the

13:39:02 24 border from Piedras Negras to San Antonio and Dallas.

13:39:05 25 Q. I'm going to show you what's been marked as Government's

13:39:07 1 Exhibit 250T. Do you recognize that, sir?

13:39:09 2 A. That's Poncho Cuellar, my ex-boss.

13:39:12 3 Q. Your Honor, I would offer Government's Exhibit 250T.

13:39:16 4 MR. CHRIS FLOOD: No objection.

13:39:21 5 THE COURT: Received without objection.

13:39:22 6 Q. (BY MR. GARDNER) Now, the jury has seen Mr. Cuellar already
13:39:29 7 testified today, but I just want to make sure that you were
13:39:31 8 identifying him. Is this a picture of Mr. Cuellar?

13:39:34 9 A. Yes, sir. That's him.

13:39:35 10 Q. Okay. And how long did you work for him?

13:39:36 11 A. Since '96.

13:39:41 12 Q. And was that all he was moving?

13:39:43 13 A. Not all the time. We used to work with weed first, then we
13:39:46 14 started working for the Zetas in 2004, 2005 moving cocaine.

13:39:50 15 Q. When you say weed, marihuana?

13:39:51 16 A. Marihuana.

13:39:52 17 Q. And during this time that you were helping Mr. Cuellar move
13:39:59 18 cocaine into the United States, where were you living?

13:40:02 19 A. I was living in San Antonio at the time when we lost that
13:40:06 20 load, I went back to Mexico to live over there.

13:40:08 21 Q. Okay. When you say lost a load, what does that mean?

13:40:11 22 A. We lost some kilos of cocaine, the trooper pulled over and
13:40:16 23 they found.

13:40:18 24 Q. Were you the driver of that load?

13:40:19 25 A. No. Had some people driving it.

13:40:22 1 Q. Okay. So why did that --

13:40:24 2 A. I was just supervising they get the load to Houston, Texas.

13:40:28 3 Q. Okay. So why did you feel you needed to leave the United
13:40:31 4 States?

13:40:31 5 A. Because I was afraid that they were going to -- the guy that
13:40:35 6 hired the drivers, when he got arrested, he was going to put me
13:40:38 7 through -- back in prison.

13:40:41 8 Q. Identify you?

13:40:43 9 A. Yes, sir.

13:40:44 10 Q. Do you remember when this was?

13:40:46 11 A. It was 2010, I think. Believe, 2009, 2010.

13:40:52 12 Q. And so, when you went to Mexico, what did you do down there?

13:40:56 13 A. I started doing the same thing for Poncho, started
13:40:59 14 supervising the drugs when at the time "Metro" was the -- he was
13:41:06 15 in charge of Piedras Negras. He was a plaza boss in charge of
13:41:08 16 all the drugs that they get there. He would call Poncho. Poncho
13:41:12 17 would call me to get the loads of cocaine and take them to safety
13:41:16 18 houses. Get them ready to get across the border.

13:41:19 19 Q. And so, do you also know Hector Moreno?

13:41:21 20 A. Yes, I do.

13:41:22 21 Q. So while you were working for Poncho Cuellar, were you aware
13:41:28 22 of any money being sent for horse expenses in the United States?

13:41:32 23 A. Yes. Yes, I did.

13:41:34 24 Q. Do you know who that was for?

13:41:35 25 A. At the time, Carlitos was the one that was receiving the

13:41:40 1 money when we send it over here.

13:41:43 2 Q. Do you know who was giving the orders to send the money?

13:41:47 3 A. Zeta "Cuarenta" was giving the order to Poncho.

13:41:49 4 Q. Can you pull up 250A and B, please?

13:42:01 5 250A, sir, there on your left, who is that?

13:42:05 6 A. That's Miguel Angel Trevino, Zeta "Cuarenta."

13:42:08 7 Q. That's his nickname, "40"?

13:42:09 8 A. "Forty."

13:42:11 9 Q. And who is the one that just popped up?

13:42:13 10 A. That his brother, Z-42, Omar.

13:42:16 11 Q. How often did you see them during your time in Mexico?

13:42:19 12 A. Sometime we used to see them once a month, twice a month, it
13:42:23 13 all varied. Sometimes it was just two times a week and then,
13:42:27 14 disappeared for month, then come back like maybe three or four
13:42:29 15 months.

13:42:30 16 Q. And when you say horse expenses, could you identify to the
13:42:34 17 jury what you recall about drug money being sent back to the
13:42:39 18 United States to pay for horses?

13:42:40 19 A. About how we were sending it?

13:42:53 20 Q. Let's start with this question. How many occasions were you
13:42:57 21 aware of in which you sent drug money for horse expenses?

13:43:02 22 A. There was sometimes when in San Antonio, the drugs that I
13:43:05 23 would sell would give them to one guy, Carlitos, so he can pay
13:43:09 24 for the horses that we were training here for Chevo, one of the
13:43:14 25 trainers, and the other one is Carlitos. And then, we used to

13:43:18 1 send money so we could buy at the auctions when they were buying
13:43:22 2 it.

13:43:22 3 Q. So if I understand your testimony, correct me if I'm wrong,
13:43:24 4 you would send directly -- money directly from the United States
13:43:27 5 to Carlos Nayen in San Antonio.

13:43:30 6 A. We would do it through some guys which name goes by "Yo Yo."
13:43:35 7 I would take some money to Laredo, from Laredo was sent to
13:43:38 8 Monterrey, and from there, I don't know how they do it. Through
13:43:41 9 the houses exchange.

13:43:42 10 Q. Exchange houses?

13:43:43 11 A. Yeah.

13:43:43 12 Q. And another occasion, you were sending money to pay for the
13:43:46 13 auction house -- auctions in the United States?

13:43:49 14 A. Yes, sir.

13:43:49 15 Q. Now, were you present when "40" was watching the All
13:43:59 16 American Futurity with Mr. Piloto in 2010?

13:44:02 17 A. Yes.

13:44:03 18 Q. Do you recall what horse won that race?

13:44:07 19 A. Mr. Piloto.

13:44:09 20 Q. And do you know who owned Mr. Piloto?

13:44:12 21 A. Zeta Cuarenta.

13:44:14 22 Q. Do you know who was listed as the owner of that horse in the
13:44:19 23 United States?

13:44:19 24 A. Jose Trevino, I believe.

13:44:22 25 Q. And who is Jose Trevino?

13:44:23 1 A. His brother.

13:44:24 2 Q. Have you ever seen him?

13:44:25 3 A. I never saw him in Mexico.

13:44:27 4 Q. Have you seen him in the United States?

13:44:30 5 A. No.

13:44:31 6 Q. Now, what did "40," "Cuarenta," say about his brother owning
13:44:38 7 that horse after the race?

13:44:39 8 A. Well, they were watching it in Nava, Coahuila. We were
13:44:44 9 actually watching through the internet. It was "40," "46," "42,"
13:44:50 10 another comrade. Carlitos was there, Poncho, Hector, me, Wicho,
13:44:57 11 and the one at the All American Futurity, "40" told "42" that my
13:45:05 12 compadre thought he was going to be up there, meaning to his
13:45:08 13 brother.

13:45:09 14 MR. CHRIS FLOOD: I object to hearsay, your Honor.

13:45:22 15 THE COURT: You could stop at Wicho and the one at the
13:45:28 16 American Futurity, "40" told "42." Next question.

13:45:36 17 Q. (BY MR. GARDNER) What did "40" say to "42" in your presence?

13:45:39 18 MR. CHRIS FLOOD: Objection, your Honor.

13:45:40 19 THE COURT: Overruled. It's not again offered for the
13:45:43 20 truth therein, but it's offered that it was said.

13:45:50 21 A. My brother never thought he was going to be up there racing
13:45:53 22 horses after waking every day at -- to work at 5:00 in the
13:45:57 23 morning. Now we have him up there working for us.

13:46:01 24 MR. CHRIS FLOOD: Your Honor, also, I'm unclear if it's
13:46:04 25 Poncho or Pancho, and that's the problem during this trial.

13:46:07 1 MR. GARDNER: I'll clear that up.

13:46:08 2 THE COURT: All right.

13:46:09 3 Q. (BY MR. GARDNER) When you said Poncho, that's Poncho
13:46:11 4 Cuellar?

13:46:12 5 A. Yeah. That's Poncho Cuellar.

13:46:13 6 Q. Have you ever met the Defendant Pancho Colorado?

13:46:19 7 A. I never met him, but I saw him in Mexico.

13:46:21 8 Q. As far as the race up in Nava, Coahuila, it was Poncho
13:46:25 9 Cuellar, not Pancho Colorado?

13:46:27 10 A. No. It was Poncho Cuellar.

13:46:29 11 Q. Could we put up 250E? When you talked earlier about Carlos
13:47:00 12 Nayan, how do you know him, sir?

13:47:04 13 A. Well, Poncho used to send me to go pick him up at Piedras
13:47:08 14 Negras so he can go meet with Zeta 40 and "42" when he was coming
13:47:12 15 from the United States to Mexico.

13:47:16 16 Q. And did you ever hear Carlos Nayan talk about Pancho
13:47:20 17 Colorado?

13:47:20 18 A. That's his step-dad.

13:47:22 19 Q. That's what he said, that's his step-dad?

13:47:24 20 A. Yeah.

13:47:25 21 Q. Did you hear Carlos Nayan say what his step-dad did for a
13:47:31 22 living?

13:47:32 23 A. No. I never heard him say anything about that.

13:47:34 24 Q. You said you've seen the defendant on one occasion. Where
13:47:40 25 was that?

13:47:40 1 A. It was at a private race that was made in Morelos, Coahuila,
13:47:45 2 Mexico.

13:47:46 3 Q. And were you present there with Poncho Cuellar?

13:47:49 4 A. Yes, sir. I was there with Poncho Cuellar.

13:47:51 5 Q. Hector Moreno. Who else was there?

13:47:58 6 A. There was a lot of people like "Mamito" was there, Carlitos
13:48:03 7 Nayen was there, also, Pancho Colorado, and it was just a private
13:48:08 8 race for school racing for other horses that we had.

13:48:10 9 Q. When you say school racing, is that younger horses?

13:48:13 10 A. Younger horse, yearlings.

13:48:15 11 Q. Could you put up 250U? And when you say "Mamito," is that
13:48:24 12 "Mamito"?

13:48:24 13 A. That's him. That's "Mamito."

13:48:26 14 Q. And what was his role, to your knowledge, in the Zetas?

13:48:28 15 A. He was comrade. He was in charge of San Luis Potosi, the
13:48:35 16 state.

13:48:35 17 Q. And what was your understanding of the role of "40" and "42"
13:48:39 18 at that time?

13:48:44 19 A. "Forty" was second in charge of the Zetas cartels.

13:48:48 20 Q. And who was in charge?

13:48:49 21 A. "Forty" was the second, and in charge at the time was
13:48:54 22 Heriberto Lazcano.

13:48:55 23 Q. And what Zeta number was Lazcano?

13:48:57 24 A. I never heard what his number. I just know him as Heriberto
13:49:04 25 Lazcano.

13:49:04 1 Q. All right. So this horse race, how long did that last?

13:49:12 2 A. We started at 10:00 in the morning, and it went all the way
13:49:16 3 to 5:00, 6:00 in the afternoon.

13:49:18 4 Q. And where were you standing or sitting in relation to where
13:49:23 5 you could see Pancho Colorado?

13:49:25 6 A. I was across from the rail from them, right in front of them
13:49:29 7 at the finish line.

13:49:31 8 Q. When you say the rail, so you're on one side of the track,
13:49:34 9 and they're on the other side?

13:49:35 10 A. Yeah. We're on the right side, and they were on the left
13:49:37 11 side.

13:49:38 12 Q. And how far in distance is that?

13:49:40 13 A. Maybe like six meters, eight meters.

13:49:45 14 Q. And while you were standing on one side of the track and
13:49:50 15 Pancho Colorado was standing on the other side of the track, who
13:49:52 16 was standing or sitting next to Pancho Colorado?

13:49:55 17 A. Z-40, Miguel, and the other side was Z-42.

13:49:59 18 Q. Did you hear anything they were saying?

13:50:01 19 A. No, because Z-40 was sitting next to Pancho, they were
13:50:08 20 betting on the racing.

13:50:09 21 Q. Betting on the racing?

13:50:11 22 A. Yeah.

13:50:12 23 Q. And did you see any bruises on Pancho Colorado?

13:50:15 24 A. No, sir.

13:50:15 25 Q. Did he appear to be under an armed guard in front of "40" or

13:50:20 1 "42"?

13:50:21 2 A. No. Everybody was having a good time. Everybody was
13:50:25 3 smiling and talking, laughing.

13:50:27 4 Q. And after the race, did you attend a dinner or a cookout?

13:50:38 5 A. Yes, we did. They did a cookout right there next to the
13:50:42 6 track.

13:50:43 7 Q. And how many people were at this cookout?

13:50:46 8 A. There was like 80 bodyguards from the cartels and we all sat
13:50:52 9 -- the bodyguards sat on one side, and the people that was with
13:50:56 10 Zeta 40, the ones that were close to him, were all sitting on the
13:50:59 11 other side close to them.

13:51:00 12 Q. And where was Pancho Colorado sitting?

13:51:02 13 A. He was sitting next to Z-40.

13:51:05 14 Q. And they were just eating dinner?

13:51:06 15 A. Yeah. We were just eating dinner and talking, and everybody
13:51:10 16 was talking about the yearling school, who they like and who was
13:51:13 17 going to be the best.

13:51:14 18 Q. You mean the horses?

13:51:15 19 A. Yeah. The horses, sir.

13:51:16 20 Q. And how long did that dinner take place?

13:51:21 21 A. About an hour and 30 minutes.

13:51:23 22 Q. At any time, did you observe the Defendant Colorado-Cessa
13:51:29 23 under any kind of duress?

13:51:29 24 A. No, sir.

13:51:31 25 Q. Did you observe him to be under any kind of fear or danger?

13:51:34 1 A. No, because I was just -- it was private ranch where the
13:51:38 2 people that were close to Z-40. I mean, everybody was just
13:51:41 3 having a good time there.

13:51:43 4 Q. When you say private race for the people close to Z-40, was
13:51:47 5 that race by invitation only?

13:51:52 6 A. Yes. Only people. Not any citizen could get through there
13:51:56 7 because you want to go through the track, you have to go through
13:51:59 8 "40." People that was there shaking -- they were calling inside
13:52:02 9 who you were coming with. If you didn't knew nobody inside, you
13:52:05 10 couldn't get there.

13:52:06 11 Q. May I have one moment, your Honor?

13:52:10 12 THE COURT: You may.

13:52:11 13 MR. GARDNER: Your Honor, I'll pass the witness.

13:52:12 14 THE COURT: Your witness, counselor.

13:52:15 15 CROSS-EXAMINATION

13:52:16 16 BY MR. CHRIS FLOOD:

13:52:16 17 Q. So were there other horse owners there at the track?

13:52:21 18 A. Yes, sir.

13:52:22 19 Q. Okay. But those people all had to go through the same
13:52:25 20 security, right?

13:52:25 21 A. Yes, sir.

13:52:26 22 Q. And was Ramiro Villarreal there?

13:52:33 23 A. No, sir. I don't recall seeing him.

13:52:36 24 Q. Was this gentleman "Yo Yo" there?

13:52:39 25 A. No, sir.

13:52:40 1 Q. All right. Now "Yo Yo" was a guy that you had frequent
13:52:43 2 contact with, right?

13:52:44 3 A. I saw him one time when I went to Laredo.

13:52:46 4 Q. Okay. So you -- only one time to deliver money?

13:52:50 5 A. Yes, sir.

13:52:50 6 Q. Did he call himself "Yo Yo" or did other people call him "Yo
13:52:54 7 Yo"?

13:52:54 8 A. Carlitos told me it was "Yo Yo."

13:52:59 9 Q. May I approach the witness, your Honor?

13:53:01 10 THE COURT: You may.

13:53:02 11 Q. (BY MR. CHRIS FLOOD) Is this the way he signed his name or
13:53:05 12 do you know?

13:53:07 13 A. I never saw by the way he signed his name.

13:53:09 14 Q. You've never seen his handwriting?

13:53:11 15 A. No, sir.

13:53:12 16 Q. I don't have any further questions, your Honor. Thank you.

13:53:35 17 THE COURT: Redirect?

13:53:36 18 MR. GARDNER: No, your Honor. May this witness be
13:53:38 19 excused?

13:53:38 20 THE COURT: May the witness be excused?

13:53:40 21 MR. CHRIS FLOOD: Yes, your Honor. No objection.

13:53:41 22 THE COURT: Witness is excused. Thank you, sir. Call
13:54:03 23 your next.

13:54:04 24 MS. FERNALD: Government would call Jose Carlos
13:54:06 25 Hinojosa.

13:54:56 1 (Witness sworn through interpreter.)

13:57:55 2 MS. FERNALD: May I proceed, your Honor?

13:57:57 3 THE COURT: You may.

13:57:58 4 JOSE CARLOS HINOJOSA, called by the Government, duly sworn.

13:57:58 5 DIRECT EXAMINATION

13:57:58 6 BY MS. FERNALD:

13:57:59 7 Q. Mr. Hinojosa, please introduce yourself to the jury and tell
13:58:01 8 them where you're originally from.

13:58:11 9 A. Carlos Hinojosa. I'm from Miguel Aleman, Tamaulipas,
13:58:11 10 Mexico.

13:58:18 11 Q. And, Mr. Hinojosa, do you have a nickname that you go by?

13:58:24 12 A. Yes.

13:58:24 13 Q. And what is that?

13:58:25 14 A. "Charly."

13:58:26 15 Q. So most people refer to you as Charly Hinojosa, correct?

13:58:33 16 A. Yes.

13:58:35 17 Q. And do you speak a little bit of English?

13:58:40 18 A. Yes.

13:58:41 19 Q. Okay. So for today, I just want you to speak Spanish so the
13:58:45 20 interpreter can get the interpretation, correct?

13:58:55 21 A. Okay. Yes.

13:58:57 22 Q. You're obviously in custody, are you not?

13:59:01 23 A. Yes.

13:59:02 24 Q. Can you tell the jury what you're in custody for?

13:59:11 25 A. Drug conspiracy and money laundering.

13:59:13 1 Q. Where were you charged?

13:59:22 2 A. McAllen, Texas.

13:59:23 3 Q. When were you arrested?

13:59:29 4 A. September 2, 2008.

13:59:32 5 Q. And have you done -- did you plead guilty on that case?

13:59:36 6 A. Yes.

13:59:38 7 Q. And were you sentenced on that case?

13:59:42 8 A. Yes.

13:59:43 9 Q. Did you -- prior to you being sentenced on the -- how long
13:59:48 10 were you sentenced for?

13:59:49 11 A. Twenty-four years for conspiracy, 20 years for money
14:00:01 12 laundering.

14:00:01 13 Q. And did those sentences run together or are they separate?
14:00:07 14 Are they stacked?

14:00:15 15 A. They're stacked.

14:00:17 16 Q. So how many years total are you going to spend in prison?

14:00:28 17 A. Twenty-four.

14:00:30 18 Q. Okay. So those sentences, the 20 years and the 24 are going
14:00:33 19 to run together.

14:00:40 20 A. Yes.

14:00:40 21 Q. And you were arrested in September of 2008. Did you start
14:00:48 22 cooperating with authorities?

14:00:55 23 A. Yes.

14:00:56 24 Q. I'm going to bend this mic in front of you just a little bit
14:01:03 25 so we can hear you better.

14:01:09 1 I'll get into it in a little bit, but initially, did
14:01:15 2 you -- were you a hundred percent truthful with the authorities
14:01:19 3 when you began cooperating?

14:01:28 4 A. No. Just a bit.

14:01:30 5 Q. Okay. Tell the jury why you started off not being
14:01:35 6 one-hundred percent cooperative and forthcoming when you were
14:01:38 7 arrested.

14:01:54 8 A. Because my brother and my uncle and some of my workers had
14:02:03 9 been kidnapped, and I was being threatened.

14:02:06 10 Q. And who were they kidnapped by?

14:02:14 11 A. "Hummer," he was one of the Zeta leaders.

14:02:20 12 Q. Have you and I spoken before this?

14:02:25 13 A. I'm sorry?

14:02:27 14 Q. Have we spoken together before?

14:02:31 15 A. Yes.

14:02:31 16 Q. How many times?

14:02:33 17 A. Don't remember, three or four times.

14:02:38 18 Q. And each time that I come to you, do I have new questions
14:02:41 19 for you?

14:02:45 20 A. Yes.

14:02:46 21 Q. And we've developed the knowledge that you have each time we
14:02:52 22 talked; is that correct?

14:02:58 23 A. Yes.

14:03:01 24 Q. Tell the ladies and gentlemen of the jury your educational
14:03:04 25 background.

14:03:16 1 A. I completed the university. I have a degree in law.

14:03:21 2 Q. So are you actually a lawyer?

14:03:25 3 A. Yes. In Mexico.

14:03:27 4 Q. In Mexico. What year did you graduate law school?

14:03:36 5 A. '99, 2000.

14:03:38 6 Q. And where did you go to work as soon as you graduated?

14:03:45 7 A. At the Miguel Aleman prosecutor's office.

14:03:50 8 Q. Was that for the federal prosecutors?

14:03:55 9 A. Yes.

14:03:56 10 Q. And where is Miguel Aleman?

14:04:05 11 A. It's located on the Texas border. It's across from Roland,

14:04:16 12 Texas.

14:04:17 13 Q. Can we pull up Government's Exhibit 231? Have you seen this

14:04:32 14 map before, Mr. Hinojosa?

14:04:35 15 A. Yes. It's Mexico.

14:04:43 16 Q. Miguel Aleman is a little bit -- we have Nuevo Laredo,

14:04:51 17 that's located right here? Thank you so much. Is Miguel Aleman

14:05:01 18 a little bit north of that?

14:05:08 19 A. It's where you see Nuevo Laredo and Reynosa, it's between

14:05:12 20 them.

14:05:18 21 Q. Right there, further down.

14:05:21 22 A. Further down. Further down. More. Right there.

14:05:26 23 Q. Right there. So right there in that little creek?

14:05:31 24 A. Yes.

14:05:32 25 Q. And did you study geography in school, by the way?

14:05:41 1 A. All of us have to take that subject.

14:05:44 2 Q. Okay. When you started with the federal prosecutor's office
14:05:52 3 in approximately 2000, can you tell the jury a little bit about
14:05:57 4 the cartels in the area and how they worked with the federal
14:06:01 5 prosecutor's office?

14:06:17 6 A. In what year?

14:06:18 7 Q. 2000.

14:06:34 8 A. There at the time, the cartel worked independently, so
14:06:46 9 everybody handled how they knew their drugs and how they
14:06:49 10 trafficked. And so, they had to pay their bribes there at the
14:06:55 11 prosecutor's office for protection so that they wouldn't be
14:07:00 12 bothered so they could do their business.

14:07:02 13 Q. And what did you do exactly at the prosecutor's office when
14:07:05 14 you were there?

14:07:10 15 A. I was one of the first clerks. I was the -- handled the
14:07:31 16 processing of people that had been detained. And so, I -- for
14:07:37 17 both good and bad reason, we also were the ones that collected
14:07:43 18 the bribes that were being paid.

14:07:45 19 Q. So were you an intake officer?

14:07:48 20 A. Yes.

14:07:50 21 Q. And how long were your there before you started collecting
14:07:54 22 bribe money from the cartel?

14:08:05 23 A. That was almost immediately. There's a lot of corruption in
14:08:08 24 Mexico.

14:08:14 25 Q. And with a lot of corruption in Mexico, is there bribes

14:08:22 1 exchanged with governmental agencies between the cartel and the
14:08:26 2 government's agencies?

14:08:35 3 A. Yes.

14:08:40 4 Q. We'll skip to 2001 because that's a significant date in this
14:08:46 5 message that you have for the jury.

14:08:49 6 In April of 2001, can you describe to them a meeting
14:08:52 7 that took place between government workers and the cartel?

14:09:10 8 A. Yes. In April of 2001, there was a group of a lot of people
14:09:48 9 showed up and they had all the public servants of the local,
14:09:51 10 state, federal authorities come, and they informed us that the
14:09:58 11 Golfo cartel was going to be the one in charge now and that they
14:10:01 12 didn't want to be bothered.

14:10:03 13 Q. So when they came, how -- can you tell the jury how they
14:10:07 14 came? Did they come in armored cars?

14:10:16 15 A. All kinds, both armored cars and not armored cars, and
14:10:26 16 armed, carrying weapons.

14:10:28 17 Q. Okay. And did you know it was the cartel?

14:10:31 18 A. Not for that day.

14:10:34 19 Q. Which cartel was this?

14:10:38 20 A. The Golfo cartel.

14:10:44 21 Q. And the Gulf cartel, did the Los Zetas work in connection
14:10:51 22 with the Gulf cartel in 2001?

14:10:59 23 A. Yes. They were the armed right branch of the cartel. They
14:11:13 24 were the cartel's bosses. They were their assassins.

14:11:24 25 Q. At this meeting, what did the members -- you call it the

14:11:27 1 company, do you not?

14:11:29 2 A. Yes. The company.

14:11:30 3 Q. What did the members of the company tell you about the bribe
14:11:36 4 fees at this meeting?

14:11:39 5 A. That everything was going to be going through them. That
14:11:58 6 any -- all the payments, right to work, and all the other
14:12:02 7 payments that were being made would go to them and that they were
14:12:05 8 the ones that would distribute it, distribute the bribes to all
14:12:09 9 the agencies.

14:12:09 10 Q. And how did that change from how it was working before?

14:12:19 11 A. Well, now everything was going to go through them and they
14:12:35 12 had to be informed of everything, and that now, all the earnings
14:12:38 13 were going to be more for them than for the agencies.

14:12:44 14 Q. And did it, in fact, happen that way?

14:12:48 15 A. Yes.

14:12:48 16 Q. And while you were at the federal prosecutor's office in
14:12:54 17 2001 to about 2003, did you come in contact with an individual by
14:12:59 18 the name of Efrain Torres?

14:13:05 19 A. Yes.

14:13:12 20 Q. Let me show 250S, please. It has not? Prior to pulling it
14:13:28 21 up, Marisol, hold on just one moment. May I approach, your
14:13:34 22 Honor?

14:13:35 23 THE COURT: Yes, you may.

14:13:38 24 Q. (BY MS. FERNALD) I'm showing you what has been marked as
14:13:40 25 Government's Exhibit No. 250S. Do you recognize that photograph?

14:13:46 1 A. Yes.

14:13:50 2 Q. Who do you recognize that to be a photo of?

14:13:56 3 A. Efrain Teodoro Torres, or 14, "Chispa."

14:14:07 4 Q. Move for introduction of Government's Exhibit 250S.

14:14:10 5 MR. CHRIS FLOOD: No objection.

14:14:11 6 THE COURT: Without objection, received.

14:14:20 7 Q. (BY MS. FERNALD) 250S, is that Efrain Torres?

14:14:25 8 A. Yes.

14:14:27 9 Q. Who was Efrain Torres?

14:14:34 10 A. At that time?

14:14:35 11 Q. Yes.

14:14:47 12 A. He was a plaza boss there at Miguel Aleman, of Mier

14:14:52 13 Guerrero, of what we call the small boy, him and "Mamito,"

14:15:00 14 another Zeta.

14:15:04 15 Q. And you said his nickname, his nickname "Chispa"?

14:15:10 16 A. Also, yes.

14:15:13 17 Q. Z-14?

14:15:15 18 A. Yes.

14:15:15 19 Q. And how did you get to know him while you were working at
14:15:21 20 the federal prosecutor's office?

14:15:26 21 A. Because when that meeting happened, I was the one that ended
14:15:40 22 up being the one that had to report to him for our agency and to
14:15:53 23 give an accounting of everything that was done there at the
14:15:55 24 agency.

14:15:56 25 Q. So at that meeting in April of 2001, were you forced to join

14:16:02 1 the cartel, or were you given a chance to do what you wanted?

14:16:13 2 A. The words were very simple. Those that want to stay, stay.

14:16:25 3 If you don't, leave.

14:16:27 4 Q. And did some people leave?

14:16:31 5 A. No.

14:16:34 6 Q. Obviously you stayed.

14:16:37 7 A. Yes.

14:16:37 8 Q. Why did you stay?

14:16:41 9 A. Well, because you made money. You got power and you made

14:16:52 10 money.

14:16:55 11 Q. Did you leave the prosecutor's office and you began working

14:17:01 12 solely with Efrain Torres?

14:17:10 13 A. Yes.

14:17:11 14 Q. How long did you work for Efrain Torres?

14:17:16 15 A. Well, starting in 2001, I was the one that when he assumed

14:17:49 16 command of the area, I was the one that had to report to him, and

14:17:52 17 then, when I left the agency, I was working directly for him. I

14:17:56 18 was doing his accounting. I would report on the payments and the

14:17:59 19 quotas had been paid, and he started trusting me.

14:18:05 20 Q. And after working with him for seven years during the

14:18:08 21 course, did you meet an individual named Francisco Colorado-Cessa

14:18:12 22 through Efrain Torres?

14:18:24 23 A. Yes.

14:18:24 24 Q. And through the course of the seven years that you worked

14:18:27 25 with Efrain Torres, is it fair to say that your responsibilities

14:18:32 1 grew bigger and bigger as you gained trust?

14:18:39 2 A. Yes.

14:18:49 3 Q. When you were arrested in 2008 in the Mission, Texas area,
14:19:00 4 can you tell the jury where you went?

14:19:04 5 A. Are you asking where I was detained or --

14:19:18 6 Q. Yes.

14:19:21 7 A. Oh, in La Villa, Texas. It's a detention area called La
14:19:30 8 Villa, Texas.

14:19:30 9 Q. Was a search warrant ran on your house?

14:19:34 10 A. Yes.

14:19:36 11 Q. And do you know by which agency?

14:19:41 12 A. FBI and DEA.

14:19:44 13 Q. Now, can you tell the ladies and gentlemen of the jury, did
14:19:50 14 you run into any problems when you were detained?

14:20:03 15 A. While I was detained or when I was detained?

14:20:05 16 Q. When.

14:20:07 17 A. Yes.

14:20:08 18 Q. Can you tell them about trying to bribe the warden and the
14:20:12 19 jailers?

14:20:34 20 A. Well, I'm from Mexico. With the corruption, I didn't think
14:20:53 21 it was going to be that important, and so, I bought cellphones.

14:21:00 22 I had two cellphones. I was paying bribes to have extra visits.

14:21:05 23 I was getting good food. I was getting good clothing.

14:21:09 24 Q. Did you actually try to bribe the warden with \$100,000?

14:21:17 25 MR. CHRIS FLOOD: Sorry, I didn't hear that question.

14:21:19 1 THE COURT: I'm sorry.

14:21:20 2 Q. (BY MS. FERNALD) The question was, did you attempt to bribe
14:21:22 3 a warden with \$100,000?

14:21:29 4 A. Yes.

14:21:30 5 Q. Can you tell them about that?

14:21:40 6 A. Well, I was told that if I paid \$100,000, that he and
14:21:49 7 another bondsman would get me out. So I paid the 100,000.

14:21:52 8 Q. And did you find out that things worked different in United
14:21:56 9 States than it does in Mexico?

14:22:01 10 A. Yes.

14:22:02 11 Q. What happened to you?

14:22:09 12 A. Well, we call it the well or the hole, and that's where
14:22:19 13 you're by yourself, and that's punishment and that things in the
14:22:24 14 government here are not like that.

14:22:26 15 Q. Did you have an attorney at the time?

14:22:30 16 A. Yes.

14:22:31 17 Q. And did he advise you that you were placing your plea
14:22:35 18 agreement in jeopardy?

14:22:37 19 A. Yes.

14:22:43 20 Q. You said you did not fully cooperate with authorities at
14:22:51 21 that time. What made you start -- did you ever start fully
14:22:53 22 cooperating with authorities?

14:23:03 23 A. Yes.

14:23:04 24 Q. So what changed?

14:23:06 25 A. Well, because I promised everything -- the people that had

14:23:37 1 been kidnapped, it was my family, it was my workers, they were
14:23:41 2 not returned. And they had them come out and they did not return
14:23:46 3 them, so I decided, okay, enough. Then what did I have to lose
14:23:55 4 that was better than family.

14:24:00 5 Q. Okay. Mr. Hinojosa, I'd like to start a little bit talking
14:24:04 6 about your experience with the cartel, and then, we'll move on to
14:24:07 7 Francisco Colorado-Cessa.

14:24:19 8 We've heard the terms "plaza boss." Were you actually
14:24:22 9 a plaza boss yourself?

14:24:28 10 A. Yes.

14:24:30 11 Q. And can you tell the jury where you were a plaza boss?

14:24:37 12 A. In Salinas Hidalgo and since the region where --

14:24:57 13 THE COURT: Wait. Stop. Excuse me. Let's --
14:25:02 14 projecting up there.

14:25:02 15 MS. FERNALD: I'm sorry?

14:25:03 16 THE COURT: That's projecting.

14:25:04 17 MS. FERNALD: I meant for it to, your Honor. I was
14:25:06 18 going to use --

14:25:06 19 THE COURT: Well, it's not in evidence. What are you
14:25:08 20 doing for the jury? The jury sees it.

14:25:11 21 MS. FERNALD: Writing down some dates for the jury that
14:25:13 22 he's testifying to, your Honor.

14:25:14 23 THE COURT: Is that an objection?

14:25:16 24 MR. CHRIS FLOOD: Not yet, your Honor.

14:25:17 25 THE COURT: All right.

14:25:20 1 A. And since the Miguel Aleman plaza depended on all the towns
14:25:24 2 along the border, those were in charge, there were a lot of
14:25:28 3 things to do.

14:25:29 4 Q. (BY MS. FERNALD) All right. In spring of 2001 is when you
14:25:33 5 had your meeting; is that correct?

14:25:37 6 A. Yes.

14:25:44 7 Q. You had started working at the prosecutor's office in about
14:25:48 8 1999?

14:25:49 9 A. In 2000.

14:26:01 10 Q. When did you start working for Efrain Torres?

14:26:18 11 A. It was almost -- after that meeting since I had to report to
14:26:24 12 him, it was as if I.

14:26:29 13 Q. And what did you call Efrain Torres?

14:26:39 14 A. "Chispa," Chispa 14.

14:26:50 15 Q. Is that correct?

14:26:57 16 A. Yes.

14:27:02 17 Q. And as a plaza boss, the jury's heard a little bit, but the
14:27:07 18 cartel, how did they make all of their money?

14:27:19 19 A. Trafficking drugs, selling drugs, distributing drugs.

14:27:26 20 Q. Did they control any of the politicians in the area?

14:27:33 21 A. Yes.

14:27:36 22 Q. And how did they control the politicians?

14:27:45 23 A. They pay for the campaigns, they decided who would be in the
14:27:58 24 position, who wouldn't. Through the campaigns, chief of police,
14:28:04 25 you can get into this but don't get into this.

14:28:07 1 Q. And how would they do that? Through money?

14:28:11 2 A. Yeah, through bribery.

14:28:13 3 Q. And how would they make all of their money?

14:28:24 4 A. The sale and distribution of drugs and you paid for the
14:28:28 5 right to work.

14:28:30 6 Q. What about you talked about the federal prosecutor's office.

14:28:34 7 Were there other government agencies that they bribed and used?

14:28:44 8 A. All of them.

14:28:46 9 Q. Are you familiar with an agency called Pemex?

14:28:52 10 A. Yes.

14:28:54 11 Q. What is Pemex?

14:28:59 12 A. That's short for -- Mexican oil company and that's where
14:29:13 13 they get all the gas and the oils.

14:29:20 14 Q. Can you describe to the jury how the drugs flowed from
14:29:24 15 Mexico into the United States and how the money got back over to
14:29:28 16 Mexico?

14:29:51 17 A. There's the border right there and the river border's right
14:30:04 18 along the United States, and so, it crosses the river, sometimes
14:30:08 19 it crosses the bridge but more the river. And the money, same
14:30:10 20 thing, sometimes through the bridge but more through the river.

14:30:13 21 Q. Where does the cocaine come from?

14:30:19 22 A. Columbia.

14:30:21 23 Q. And is there a lower price at Columbia than it is in the
14:30:27 24 United States?

14:30:27 25 A. Yes.

14:30:31 1 Q. What is the going -- or what was the going rate for a kilo
14:30:35 2 of cocaine in the United States?

14:30:42 3 A. At that time, 16, \$17,000. Don't remember exactly because
14:30:57 4 it varied.

14:30:58 5 Q. All right. And did you keep an accounting of the drugs that
14:31:03 6 Efrain Torres was responsible for?

14:31:11 7 A. Yes.

14:31:12 8 Q. And did you also keep an accounting of how much money he
14:31:16 9 made?

14:31:19 10 A. Yes.

14:31:20 11 Q. And how many areas or states did he control?

14:31:25 12 A. There was the state of Veracruz, there was the border area,
14:31:46 13 and there were two other states that he paid to the cartel could
14:31:51 14 work there.

14:31:52 15 Q. How powerful was his position?

14:31:57 16 A. He was big.

14:32:00 17 Q. So based upon the accounting, how many drugs ran through his
14:32:04 18 plazas during the period of time of 2001 through 2007?

14:32:17 19 A. Tons.

14:32:20 20 Q. How much money did the company make off of the drugs that
14:32:25 21 were transported into the United States and the money back into
14:32:28 22 Mexico?

14:32:39 23 A. Millions of dollars. I don't remember the exact amount, but
14:32:44 24 it was millions.

14:32:47 25 Q. When the money or the currency traveled back into Mexico,

14:32:53 1 how was it used?

14:33:11 2 A. To pay for all the company's expenses, the bribes, luxuries,
14:33:20 3 anything you wanted.

14:33:21 4 Q. On the luxuries, could Efrain Torres put luxury items in his
14:33:27 5 name?

14:33:32 6 A. No.

14:33:33 7 Q. Okay. Why not?

14:33:38 8 A. Because he was ex-military. He was ex-military. He
14:33:57 9 abandoned the military to become an assassin, and he was being
14:34:02 10 hunted.

14:34:04 11 Q. So how was he able to use the money that he got?

14:34:14 12 A. Sorry. What?

14:34:18 13 Q. How was he able to use the currency that he got from the
14:34:22 14 drugs?

14:34:28 15 A. Laundering the money or --

14:34:34 16 Q. That's what I was asking you about. How did he launder the
14:34:37 17 money?

14:34:40 18 A. Through businesses.

14:34:42 19 Q. Okay. And can you explain to the jury how you launder money
14:34:45 20 through businesses or how he laundered money through businesses?

14:35:00 21 A. Well, you create a company or you invest in a company,
14:35:08 22 well-known company or something.

14:35:13 23 Q. I want you to spell this out for us, okay? Why is that
14:35:17 24 important?

14:35:21 25 A. Well, because that way you could acquire properties that

14:35:41 1 have been bought with supposedly clean money.

14:35:46 2 Q. And were businessmen important to the company and to Efrain
14:35:52 3 Torres to be able to use to launder money?

14:36:04 4 A. Yes.

14:36:05 5 Q. How?

14:36:19 6 A. Well, it was through them. It was through them that you
14:36:22 7 could do business, that you could invest and you could wash,
14:36:29 8 launder the money.

14:36:30 9 Q. Was Efrain Torres killed?

14:36:36 10 A. Yes.

14:36:37 11 Q. When was Efrain Torres killed?

14:36:43 12 A. March of 2007.

14:36:45 13 Q. Do you remember the date?

14:36:49 14 A. It was the 3rd of March, I believe.

14:36:53 15 Q. Where was he killed?

14:37:03 16 A. In the state of Veracruz in a town called Villarin.

14:37:10 17 Q. Do you know where?

14:37:12 18 A. Yes.

14:37:13 19 Q. Where?

14:37:17 20 A. In Veracruz in the horse race, at a horse race.

14:37:22 21 Q. At a horse track?

14:37:25 22 A. Yes.

14:37:26 23 Q. Who had him killed?

14:37:31 24 A. Supposedly, it was Zeta 40.

14:37:36 25 Q. What is Zeta 40's name?

14:37:39 1 A. Miguel Trevino.

14:37:43 2 Q. Do you recognize this photograph?

14:37:54 3 A. Yes.

14:37:54 4 Q. And who is this?

14:37:58 5 A. That's Zeta 40, Miguel Trevino.

14:38:19 6 Q. Just so that we can keep all of these numbers straight, Z-14

14:38:30 7 is Efrain Torres, "Chispa," your former boss, correct?

14:38:42 8 A. Yes.

14:38:43 9 Q. And then, Zeta 40 or Z-40 is Miguel Trevino?

14:38:49 10 A. Yes.

14:38:51 11 Q. So I want to talk about the period of time between the time

14:38:58 12 that you go to work for "Chispa" in March the 3rd of 2007 when he

14:39:04 13 was killed. How would you communicate with Efrain Torres?

14:39:18 14 A. By phone or using the Nextel radios.

14:39:30 15 Q. Can you tell the jury a little bit about the Nextel radios?

14:39:35 16 A. It was one of those radio telephone things that you use

14:39:56 17 because supposedly your conversations couldn't be listened to,

14:40:00 18 supposedly your messages were encrypted at that time.

14:40:05 19 Q. So why did the company use Nextel phones?

14:40:13 20 A. Because it was more secure.

14:40:15 21 Q. Did they communicate via regular phones?

14:40:24 22 A. Sometimes when you couldn't get the Nextel signal.

14:40:28 23 Q. Were they careful about it?

14:40:32 24 A. Yes.

14:40:33 25 Q. Did they e-mail each other back and forth?

14:40:39 1 A. At that time, sometimes.

14:40:42 2 Q. Did they stop?

14:40:46 3 A. Yes.

14:40:46 4 Q. Why?

14:41:04 5 A. Because they noticed that they were doing that, more and
14:41:09 6 more information was being sent through that, and that they were
14:41:12 7 starting to talk about operations and so that it was decided that
14:41:16 8 that wasn't going to be done anymore.

14:41:19 9 Q. Did the Zetas come from a military background?

14:41:24 10 A. Yes.

14:41:25 11 Q. Were they aware of all of the law enforcement detection for
14:41:30 12 criminal activity?

14:41:36 13 A. Yes.

14:41:37 14 Q. And did they attempt to avoid it?

14:41:40 15 A. Yes.

14:41:42 16 Q. And in the course of attempting to avoid it with
14:41:45 17 communications, did they create their own cell towers?

14:41:55 18 A. Yes.

14:41:56 19 Q. Can you tell the jury about how sophisticated they were on
14:41:59 20 things like that?

14:42:01 21 A. They invested a lot in communications. They set up a lot of
14:42:27 22 towers with a lot of repeaters so that the entire area would be
14:42:31 23 linked wherever they were so it would be more secure.

14:42:35 24 Q. Did they destroy and change phones often?

14:42:41 25 A. Yes.

14:42:42 1 Q. And were they careful about keeping records or not keeping
14:42:45 2 records?

14:42:50 3 A. Yes.

14:42:51 4 Q. Tell the jury about that.

14:43:12 5 A. Well, not anyone could have all of the information, or carry
14:43:16 6 all the notes, or have the accounting nor the registry of
14:43:18 7 everything that was being done. They were the bosses. They were
14:43:21 8 out in the streets, so they couldn't have any information about
14:43:26 9 all the vehicles and all that.

14:43:27 10 Q. Okay. So what would happen if someone got caught with
14:43:30 11 records at the Los Zetas drug activities or illegal activities?

14:43:45 12 A. They would have been arrested and they would have realized
14:43:51 13 everything that was happening.

14:43:54 14 Q. And Efrain Torres, how did he make all of his money?

14:44:06 15 A. Through the cartel selling drugs, distributing drugs.

14:44:15 16 Q. How did he travel as far as security?

14:44:21 17 A. He drove in armored vehicles. He had assassins. He had
14:44:38 18 people armed that were around him in a whole convoy.

14:44:42 19 Q. Where did he live in 2001?

14:44:50 20 A. In Miguel Aleman.

14:44:51 21 Q. Where was he originally from?

14:45:04 22 A. From Veracruz.

14:45:06 23 Q. And when you say Vera Cruz, are you talking about the state
14:45:09 24 or are you talking about the city?

14:45:10 25 A. The state.

14:45:14 1 Q. Where in the state of Veracruz was he from?

14:45:18 2 A. Poza Rica.

14:45:23 3 Q. And are you familiar with the city called Tuxpan?

14:45:27 4 A. Yes.

14:45:28 5 Q. Do you know whether or not Francisco Colorado-Cessa is also

14:45:32 6 from Tuxpan?

14:45:36 7 A. Yes.

14:45:38 8 Q. And is Tuxpan between Veracruz and Poza Rica?

14:45:47 9 A. Yes.

14:45:48 10 Q. And did Efrain Torres also live in Tuxpan?

14:45:55 11 A. Yes.

14:45:56 12 Q. When did he move there?

14:46:01 13 A. It was approximately between 2003, 2004. Between 2003 and

14:46:16 14 2004.

14:46:16 15 Q. Where were you living in 2003 and 2004?

14:46:23 16 A. Miguel Aleman.

14:46:24 17 Q. Did you go to visit Efrain Torres, "Chispa" in Tuxpan?

14:46:39 18 A. Yes.

14:46:41 19 Q. And on that occasion in 2003 and 2004, did you, in fact,

14:46:46 20 meet Francisco Colorado-Cessa?

14:46:51 21 A. Yes.

14:46:54 22 Q. Does he have a nickname?

14:46:57 23 A. Pancho. Pancho Colorado.

14:47:01 24 Q. Do you see him in the courtroom today?

14:47:05 25 A. Yes.

14:47:06 1 Q. And can you identify him for us? Where is he sitting?

14:47:10 2 A. Right next to the young lady that's over on that side.

14:47:17 3 Q. Can you describe his personality to the ladies and gentlemen

14:47:21 4 of the jury?

14:47:21 5 A. What his what is?

14:47:32 6 Q. Can you describe his personality to the jury?

14:47:46 7 A. He was a businessman that was well-known, well-recognized in

14:47:52 8 the area.

14:47:55 9 Q. And how many properties did Francisco Colorado-Cessa have in

14:48:03 10 Tuxpan?

14:48:10 11 A. I couldn't tell you. I just got to know several ranches.

14:48:15 12 Q. Two?

14:48:17 13 A. Yes.

14:48:18 14 Q. Do you know the name of either ranch?

14:48:27 15 A. One of them. I remember one of them.

14:48:30 16 Q. What is that?

14:48:32 17 A. Flor de Maria.

14:48:41 18 Q. Can you describe the relationship at that time that

14:48:48 19 Colorado-Cessa had with "Chispa," or Efrain Torres?

14:49:02 20 A. Well, they had relationship because of the horses, because

14:49:15 21 of the horse races, because of his relationship with the

14:49:20 22 politicians and with the businessmen.

14:49:23 23 Q. Whose relationship with the politician and the businessmen?

14:49:31 24 A. Efrain with Mr. Colorado.

14:49:37 25 Q. Who had the relationships with the politicians?

14:49:42 1 A. Mr. Colorado.

14:49:43 2 Q. And was he important to Efrain Torres for that reason?

14:49:51 3 A. Yes.

14:49:53 4 Q. In 2003, when you met Francisco Colorado-Cessa, did he have
14:50:02 5 a business at that time?

14:50:05 6 A. Yes. He had his offices with -- about the horses and then,
14:50:22 7 he had others with the oil business and with Petro Servicios.

14:50:27 8 Q. What was the name of the company that he had?

14:50:38 9 A. I think the name was ADT Petro Servicios. Something like
14:50:42 10 that.

14:50:43 11 Q. And he had had this business -- in fairness to him, he had
14:50:47 12 had this business prior to Efrain Torres coming in, correct?

14:50:51 13 A. Yes.

14:50:58 14 Q. How big was the business at the time?

14:51:10 15 A. I couldn't tell you because at that time, I was new there.
14:51:23 16 I couldn't tell you everything.

14:51:25 17 Q. Did it grow from the time that you saw it from the beginning
14:51:28 18 to the end?

14:51:30 19 A. Yes.

14:51:36 20 Q. And we'll talk about that in a little bit.

14:51:42 21 Do you know whether or not his company ADT Petro
14:51:46 22 Servicios did business with Pemex?

14:51:52 23 MR. CHRIS FLOOD: I'm going to object unless he knows
14:51:54 24 of his own personal knowledge.

14:52:02 25 A. Sorry?

14:52:02 1 THE COURT: How do you know that?

14:52:13 2 THE WITNESS: Because Efrain told me that they had
14:52:17 3 invested in that company.

14:52:23 4 THE COURT: Go ahead.

14:52:24 5 Q. (BY MS. FERNALD) Do you know -- let me ask just "Yes" or
14:52:26 6 "No." Do you know whether or not they did business with Pemex?

14:52:37 7 A. Yes.

14:52:38 8 Q. How do you know that?

14:52:46 9 A. Because Efrain told me that they were going to invest in
14:52:50 10 Pemex in jobs that they had in the state.

14:52:54 11 Q. When did he tell you that?

14:53:05 12 A. I don't remember, but it was in that period throughout those
14:53:11 13 years when we were getting to know each other, and I would write
14:53:14 14 things down and all.

14:53:16 15 Q. How many times did you meet with Francisco Colorado-Cessa in
14:53:23 16 2003 and 2004?

14:53:26 17 A. I don't remember exactly, but every time I went to Veracruz
14:53:43 18 and every time that there were horse races, we were all there
14:53:47 19 together.

14:53:47 20 Q. So did you attend horse races with them?

14:53:51 21 A. Yes.

14:53:54 22 Q. And were these at public tracks or private tracks?

14:54:00 23 A. Both.

14:54:00 24 Q. How many horse races did you attend with Francisco
14:54:06 25 Colorado-Cessa over the years?

14:54:15 1 A. Don't remember exactly, some five or six.

14:54:18 2 Q. How did Pancho Colorado-Cessa -- how did he travel as far as

14:54:25 3 security was concerned?

14:54:35 4 A. In what aspect?

14:54:38 5 Q. Did he have any bodyguards?

14:54:42 6 A. No. I never saw him with any.

14:54:48 7 Q. What month were you arrested?

14:54:56 8 A. In September.

14:54:57 9 Q. And the year was 2008?

14:55:03 10 A. Yes.

14:55:04 11 Q. So the time period that you're talking about is between 2003

14:55:23 12 and 2008, correct?

14:55:30 13 A. No. No. It was until 2007, when Efrain was killed.

14:55:40 14 Q. But you actually saw Francisco Colorado-Cessa after Efrain

14:55:45 15 was killed, correct?

14:55:52 16 A. Yes.

14:55:53 17 Q. Are you familiar with the percentage fees that is required

14:56:07 18 to bribe governments for contracts in Mexico?

14:56:32 19 A. Majority of the companies, they charge between 10 and 15 to

14:56:37 20 16 percent. It depends on the value of the job.

14:56:40 21 Q. So if you had \$100,000 contract that you were bidding on

14:56:45 22 with the government, how much money typically would you have to

14:56:49 23 pay in the bribe?

14:57:01 24 A. Ten, 12, 15 percent, it would depend on the job and, also,

14:57:13 25 on how much the person that's giving you the job wants.

14:57:17 1 Q. In 2004, did you take a trip to Veracruz to meet a candidate
14:57:24 2 for governor?

14:57:32 3 A. Yes.

14:57:33 4 Q. Who did you go with?

14:57:38 5 A. With Efrain.

14:57:42 6 Q. Who else was with you?

14:57:45 7 A. Mr. Colorado. That's who we always met up with there.

14:57:55 8 Q. What year was that?

14:58:08 9 A. It was approximately 2004. I don't remember the year
14:58:15 10 exactly.

14:58:16 11 Q. Okay. And who was the gubernatorial candidate?

14:58:24 12 MR. CHRIS FLOOD: Judge, I object. Could we have a
14:58:26 13 sidebar quickly?

14:58:27 14 THE COURT: All right.

14:58:33 15 (At the bench, on the record.)

14:58:40 16 MR. CHRIS FLOOD: I don't know if counsel's
14:58:42 17 purposely --

14:58:43 18 THE COURT: You can talk.

14:58:44 19 MR. CHRIS FLOOD: I'm sorry. I don't know if counsel
14:58:47 20 is purposely dancing around it or if she's suggesting that this
14:58:51 21 defendant was engaged in bribery. Because if that's the case,
14:58:55 22 they have to give 404(b) notice that's not charged in the
14:58:56 23 indictment --

14:59:08 24 (Audio feed unavailable.)

14:59:08 25 MS. FERNALD: -- gave the governor or the candidate \$12

14:59:11 1 million.

14:59:11 2 THE COURT: Yes.

14:59:12 3 MS. FERNALD: To secure contracts with Pemex.

14:59:15 4 THE COURT: And?

14:59:16 5 MS. FERNALD: That's it.

14:59:18 6 MR. CHRIS FLOOD: Not for the defendant. I mean, the
14:59:19 7 defendant involved.

14:59:20 8 MS. FERNALD: The defendant through his company -- I'm
14:59:21 9 sorry. Efrain Torres gave the defendant \$12 million to give to
14:59:26 10 Fidel Herrera so that the defendant's company can get contracts
14:59:31 11 through Pemex.

14:59:33 12 MR. CHRIS FLOOD: That would make him a party to the
14:59:36 13 bribe, Judge. It's not part of the charges.

14:59:37 14 THE COURT: I'm going to stop. We're finished with
14:59:39 15 this. We'll move on. Let's get to the meat of the case. Okay.
14:59:43 16 We've established enough to where you could argue duress.

14:59:47 17 MS. FERNALD: Yes, sir.

15:00:04 18 Q. (BY MS. FERNALD) Mr. Hinojosa, were you instructed by Efrain
15:00:09 19 Torres to make an entry in your books on money given to Francisco
15:00:15 20 Colorado-Cessa?

15:00:16 21 A. Yes.

15:00:28 22 Q. And how much was that entry?

15:00:38 23 A. The first one was approximately 12 million.

15:00:41 24 Q. When was that?

15:00:48 25 A. It was about 2004. Yeah, 2004.

15:00:55 1 Q. Who told you to do that?

15:01:03 2 A. "Chispa," "14."

15:01:04 3 Q. How did Efrain Torres get this \$12 million?

15:01:17 4 A. From the sale of drugs.

15:01:20 5 Q. And how did Francisco Colorado-Cessa know or did he know how

15:01:25 6 he got the money?

15:01:39 7 A. Can you ask that again, please?

15:01:42 8 Q. Did Francisco Colorado-Cessa know how Efrain Torres made his

15:01:51 9 money?

15:01:51 10 A. Everybody in Veracruz knew who Zeta "Catorce" was.

15:02:00 11 Q. All right. Tell the jury that.

15:02:12 12 A. Zeta 14 was head of the entire Veracruz state plaza and he

15:02:19 13 was well-known there.

15:02:21 14 Q. How would you know who he was if you saw him in Veracruz at

15:02:38 15 the time?

15:02:38 16 A. Well, because he was always with a lot of bodyguards, a lot

15:02:43 17 of pickups, and at the horse races everybody knew him.

15:02:47 18 Q. How close was Francisco Colorado-Cessa to Efrain Torres?

15:02:58 19 A. They were friends.

15:03:00 20 Q. And when you say friends, how close of friends?

15:03:11 21 A. Very close. They're called compadres.

15:03:14 22 Q. Compadres. Can you tell the ladies and gentlemen of the

15:03:18 23 jury if Efrain Torres had a son?

15:03:26 24 A. Yes.

15:03:26 25 Q. What was his son's name?

15:03:30 1 A. Alexander.

15:03:31 2 Q. And who was the godfather to Alexander?

15:03:40 3 MR. CHRIS FLOOD: I would object on hearsay, your

15:03:42 4 Honor.

15:03:44 5 THE COURT: Do you know who was the godfather?

15:03:46 6 THE WITNESS: Yes.

15:03:47 7 THE COURT: How do you know?

15:03:49 8 THE WITNESS: Because I went to the baptism.

15:03:55 9 THE COURT: Overruled.

15:03:57 10 Q. (BY MS. FERNALD) Who was Alexander, the son of Efrain

15:04:03 11 Torres, Zeta 14, who was his godfather?

15:04:12 12 A. Mr. Colorado.

15:04:15 13 Q. And in the Mexican culture, what does that signify about the
15:04:20 14 relationship between Efrain Torres and Francisco Colorado-Cessa?

15:04:38 15 A. In Mexico, it was believed that your compadres, it's a
15:04:49 16 friendship where you will always take care of the child that you
15:04:54 17 baptized.

15:04:59 18 Q. With this \$12 million, did ADT's business grow? Did the
15:05:05 19 defendant's business ADT Petro Servicios grow?

15:05:14 20 A. The machinery was bought and the machinery was bought so the
15:05:34 21 company, they could take on more -- because there would be more
15:05:37 22 jobs from the government, and that's why money was invested
15:05:41 23 there.

15:05:44 24 Q. So tell me about the money being invested in ADT.

15:05:57 25 A. What I was told to write down and what I wrote down was that

15:06:02 1 there was about \$6 million invested in it for the purchase of
15:06:05 2 equipment.

15:06:06 3 Q. Do you know anything about an airplane?

15:06:19 4 A. Yes.

15:06:22 5 Q. Was there an airplane purchased with the money?

15:06:27 6 A. Yes.

15:06:28 7 Q. May I approach, your Honor?

15:06:40 8 THE COURT: You may.

15:06:41 9 Q. (BY MS. FERNALD) I'm showing you now what has been marked as
15:06:45 10 Government's Exhibit 341, 342 and 343. Have you looked at these
15:06:52 11 photographs before?

15:06:57 12 A. Yes.

15:06:59 13 Q. Do you recognize the airplane?

15:07:02 14 A. Yes.

15:07:04 15 Q. And what kind of airplane do you recognize it to be? Who
15:07:07 16 does it belong to?

15:07:13 17 A. It's a King Air and it's Colorado.

15:07:17 18 Q. Is this the money purchased with some of that money?

15:07:20 19 A. Yes.

15:07:22 20 Q. Move for the introduction of Government's Exhibit 341, 342
15:07:28 21 and 343.

15:07:37 22 MR. CHRIS FLOOD: No objection.

15:07:39 23 THE COURT: Without objection, they're received.

15:07:40 24 Q. (BY MS. FERNALD) I'm showing you now what has been marked as
15:07:52 25 Government's Exhibit 341. Do you recognize that?

15:08:03 1 A. Yes.

15:08:05 2 Q. And is that the King Air that was purchased?

15:08:10 3 A. Yes.

15:08:10 4 Q. You don't know all of the details of the purchase, do you?

15:08:17 5 A. No. No.

15:08:18 6 Q. Government's Exhibit 342. Is that the same plane?

15:08:30 7 A. Yes.

15:08:31 8 Q. And how do you recognize it?

15:08:40 9 A. Well, because I got in that plane.

15:08:42 10 Q. All right. Tell the ladies and gentlemen of the jury, were

15:08:45 11 you and were Efrain Torres allowed to use this plane?

15:08:54 12 A. Yes.

15:08:56 13 Q. And why were y'all allowed to use this plane? Who allowed

15:09:00 14 you to do it?

15:09:15 15 A. Well, if we needed it and it was like, can you do us a favor

15:09:19 16 and letting us use your plane, and if it was available, we used

15:09:22 17 it.

15:09:22 18 Q. All right. And I'm also showing you 343. Is that another

15:09:29 19 shot of it?

15:09:33 20 A. Yes.

15:09:33 21 Q. You said earlier that Efrain Torres had invested in ADT.

15:09:41 22 Could you explain a little bit to the jury how he had invested?

15:09:47 23 A. With money to buy equipment, to buy what was necessary to do

15:10:09 24 jobs, whatever the company needed.

15:10:11 25 Q. And how would that benefit Efrain Torres?

15:10:14 1 A. To launder money and to earn money.

15:10:24 2 Q. Was there a second payment that Efrain Torres made to
15:10:28 3 Francisco Colorado-Cessa that you were required to enter into the
15:10:35 4 books?

15:10:35 5 A. Yes.

15:10:42 6 Q. And when was that?

15:10:52 7 A. It was later. It was between 2004 and 2005.

15:11:01 8 Q. How much was that?

15:11:04 9 A. Six million.

15:11:09 10 Q. And, again, what was this money used for?

15:11:12 11 A. To invest in equipment for the company, machinery, things
15:11:21 12 like that.

15:11:21 13 Q. Was Francisco Colorado-Cessa required to pay Efrain Torres
15:11:28 14 back this money?

15:11:36 15 A. Yes.

15:11:37 16 Q. And did he?

15:11:42 17 A. Up until the day he was killed, he was still in debt. He
15:11:52 18 never finished paying anything.

15:11:53 19 Q. And after the six million, is this the total amount in which
15:12:02 20 Efrain Torres gave Francisco Colorado-Cessa, or is there more
15:12:07 21 money?

15:12:12 22 A. I don't know if there was anything else on the side, but
15:12:21 23 that's what I had listed in my notes.

15:12:23 24 Q. Okay. That's what you were ordered to list in your ledger,
15:12:26 25 right?

15:12:30 1 A. Yes.

15:12:31 2 Q. And in 2005, 2006, was he paying the money back? Was
15:12:38 3 Francisco Colorado-Cessa paying back the money?

15:13:01 4 A. As they were investing and as they were getting the jobs, if
15:13:05 5 they got paid for the jobs, if they got paid for the jobs or not,
15:13:09 6 he would make payments.

15:13:10 7 Q. Was he able to pay the entire amount back?

15:13:17 8 A. No.

15:13:19 9 Q. So was there a deal that was struck between Francisco
15:13:23 10 Colorado-Cessa and Efrain Torres in order to help Francisco
15:13:27 11 Colorado-Cessa pay back some of this debt?

15:13:31 12 A. Yes.

15:13:40 13 Q. And what was that arrangement?

15:13:56 14 A. To invest with him, to help him with the drug business. We
15:14:02 15 call it a polla.

15:14:04 16 Q. Okay. And what does that mean?

15:14:17 17 A. That you give the company the opportunity to invest so that
15:14:21 18 they can make a profit.

15:14:23 19 Q. In the drug business?

15:14:27 20 A. Yes.

15:14:27 21 Q. So how was that accomplished with Francisco Colorado-Cessa?
15:14:32 22 How was he able to pay back some of that money through the drug
15:14:35 23 business?

15:14:46 24 A. Well, as I said, Efrain invited him to share in his earnings
15:14:59 25 and his business.

15:15:01 1 Q. How was that done?

15:15:03 2 A. The investment would be to buy the drugs at a lower price
15:15:16 3 and then, sell it at a higher price at the border.

15:15:20 4 Q. At a lower price, the Columbian cut, are you familiar with
15:15:23 5 that term?

15:15:28 6 A. Yes.

15:15:30 7 Q. And how would Francisco Colorado-Cessa -- what kind of cut
15:15:35 8 would he get from Efrain Torres at the time?

15:15:37 9 MR. CHRIS FLOOD: Objection, your Honor.

15:15:43 10 THE COURT: We're going to stop right there, and we're
15:15:45 11 going to take our afternoon break and talk about it in a second.
15:15:52 12 All rise.

15:16:22 13 (Jury not present.)

15:16:22 14 THE COURT: Sustain the objection to the question.
15:16:24 15 You're going to have to lay the foundation.

15:16:26 16 MS. FERNALD: Yes, sir.

15:16:27 17 THE COURT: All right. Fifteen-minute recess.

15:16:57 18 (Recess.)

15:30:21 19 THE COURT: Anything before the jury comes in?

15:30:25 20 MR. CHRIS FLOOD: Yes, your Honor. I believe that
15:30:27 21 attorney for the government is trying to elicit testimony about a
15:30:38 22 matter that you've already ruled in your -- in our objection to
15:30:43 23 the 404(b) notice, your Honor.

15:30:45 24 THE COURT: All right. In particular, we're talking
15:30:48 25 about?

15:30:48 1 MR. CHRIS FLOOD: The alleged drug-trafficking
15:30:50 2 activities that Mr. Colorado engaged in with Mr. Torres.

15:30:57 3 THE COURT: Well, where are you going?

15:30:57 4 MS. FERNALD: And that's correct. In other words, to
15:30:59 5 establish knowledge of this organization in this conspiracy, I'm
15:31:02 6 trying to establish that he knows about the drug business because
15:31:05 7 he participated in the drug business.

15:31:09 8 THE COURT: And how are you going to do that?

15:31:11 9 MS. FERNALD: That the testimony, I believe, will
15:31:13 10 reflect that the defendant actually used his King airplane that
15:31:18 11 we just showed to transport cocaine for Efrain Torres from Mexico
15:31:25 12 -- inside the country of Mexico. So that he's aware of
15:31:30 13 knowledge.

15:31:30 14 THE COURT: He knows that the defendant.

15:31:35 15 MS. FERNALD: That is correct.

15:31:36 16 THE COURT: Transported drugs.

15:31:38 17 MS. FERNALD: Correct.

15:31:39 18 THE COURT: In the King Air that has been admitted a
15:31:44 19 picture of.

15:31:45 20 MS. FERNALD: Correct.

15:31:46 21 MR. CHRIS FLOOD: Our objection is lack of personal
15:31:48 22 knowledge that the defendant transported drugs. 403, your Honor,
15:31:52 23 this is a money-laundering conspiracy having to do with -- and
15:31:57 24 404(b).

15:32:00 25 THE COURT: Do you know that? Do you know that the

15:32:05 1 defendant transported drugs in his plane?

15:32:13 2 THE WITNESS: He didn't, the plane did.

15:32:18 3 THE COURT: So it's not he.

15:32:20 4 MS. FERNALD: Well, but he authorized this plane to be
15:32:22 5 used for the transportation of the drugs.

15:32:23 6 THE COURT: Do you know whether he authorized the use
15:32:26 7 of the plane, the defendant, that is?

15:32:29 8 THE WITNESS: Yes.

15:32:30 9 THE COURT: How do you know that?

15:32:32 10 THE WITNESS: Because the plane was used on several
15:32:36 11 occasions.

15:32:41 12 THE COURT: Give me some more than that?

15:32:46 13 MS. FERNALD: How do you know that Francisco
15:32:48 14 Colorado-Cessa had his plane used to transport cocaine?

15:32:58 15 THE COURT: Well, you can all be seated.

15:33:14 16 THE WITNESS: Because on several occasions, they had --
15:33:18 17 they sent to have the merchandise picked up by the planes.

15:33:21 18 THE COURT: They?

15:33:23 19 THE WITNESS: The workers, the ones that had been sent
15:33:31 20 to pick it up to bring it.

15:33:34 21 MS. FERNALD: And who gave the orders?

15:33:37 22 THE WITNESS: "Fourteen."

15:33:41 23 MS. FERNALD: All right. And who approved it?

15:33:47 24 THE WITNESS: Well, for the use of the plane? Mr.
15:33:50 25 Colorado.

15:33:50 1 THE COURT: How do you know that?

15:33:59 2 THE WITNESS: How could you use a plane without
15:34:00 3 permission?

15:34:03 4 THE COURT: I could think of several ways.

15:34:09 5 Q. (BY MS. FERNALD) Was he there when any of this happened?

15:34:15 6 A. No.

15:34:16 7 Q. And did Efrain Torres tell you about it happening?

15:34:23 8 A. Yes.

15:34:24 9 Q. And what did he tell you, specifically?

15:34:41 10 A. That there were going to be what they call flocks were going
15:34:46 11 to be transported in the bird so they could be picked up in one
15:34:49 12 place and taken to another.

15:34:50 13 Q. And was that on the repayment of the \$18 million?

15:34:56 14 A. Well, yeah. It was the same business entity that it fit in.

15:35:07 15 Q. And what business was that?

15:35:10 16 A. What?

15:35:11 17 Q. What business was that? What's the same business entity
15:35:14 18 that did all of this?

15:35:23 19 A. For the debt that there was to have it paid and all of that.

15:35:31 20 MR. CHRIS FLOOD: Same objection.

15:35:31 21 THE COURT: So what we have right now in testimony to
15:35:35 22 is No. 14.

15:35:40 23 MS. FERNALD: Right.

15:35:41 24 THE COURT: No. 14 told him that we would be using the
15:35:45 25 plane to transport drugs.

15:35:48 1 MS. FERNALD: That's correct.

15:35:49 2 THE COURT: So we really have a hearsay thing here
15:35:52 3 because it's being offered for the truth thereof, right?

15:35:55 4 MS. FERNALD: It's also a coconspirator statement
15:35:57 5 that's made in the course of the conspiracy that establish the
15:36:00 6 knowledge of Francisco Colorado-Cessa.

15:36:02 7 THE COURT: I'll hear you argument on that, Mr. Flood.

15:36:06 8 MR. CHRIS FLOOD: Your Honor, it wouldn't be --
15:36:07 9 assuming the statement was ever made, it wouldn't be a statement
15:36:09 10 made be a coconspirator of this conspiracy. That would be a
15:36:12 11 drug-trafficking conspiracy, and that's 404(b) evidence, your
15:36:15 12 Honor. Doesn't make it more likely that he engaged in this
15:36:18 13 conspiracy.

15:36:19 14 MS. FERNALD: This conspiracy involves the illegal
15:36:21 15 distributions of cocaine and marihuana and other types of drugs
15:36:26 16 by the Zeta cartel, and that's the basis of the specified
15:36:30 17 unlawful activity, which is contained in the conspiracy count.
15:36:35 18 And his knowledge to this is imperative for us to be able to show
15:36:39 19 that he's aware of this specified unlawful activity. And, in
15:36:43 20 fact, we're trying to show that he even participated in the
15:36:46 21 specified unlawful activity, and that's the purpose of the
15:36:50 22 government trying to introduce this.

15:36:55 23 MR. CHRIS FLOOD: Judge Sparks did not allow it in last
15:36:57 24 time.

15:36:57 25 THE COURT: I don't care what Judge Sparks did. He

15:36:59 1 didn't care what I do. I'm not going to allow it under 403.

15:37:04 2 It's an interesting question and maybe even a close one, but tie
15:37:08 3 goes to the defendant.

15:37:10 4 All right. We're ready.

15:37:11 5 MS. FERNALD: Thank you for hearing me.

15:37:13 6 THE COURT: We're ready? Bring them in. Don't ever do
15:37:17 7 that again, Mr. Flood. Don't you ever tell me what another judge
15:37:22 8 did in a similar situation. I'm not interested.

15:37:25 9 MR. CHRIS FLOOD: Yes, your Honor.

15:37:27 10 (Jury present.)

15:38:05 11 THE COURT: All right. Let's proceed. You may all be
15:38:10 12 seated.

15:38:11 13 Q. (BY MS. FERNALD) Mr. Hinojosa, can you describe the
15:38:13 14 ownership versus the control after ADT Petro Servicios as it
15:38:19 15 relates to Francisco Colorado-Cessa and Efrain Torres?

15:38:40 16 A. Who was the owner? I'm not sure I understood the question.

15:38:46 17 Q. Well, Efrain Torres had invested in ADT?

15:38:51 18 A. Yes.

15:38:52 19 Q. And who owned ADT?

15:38:56 20 A. Mr. Colorado.

15:38:59 21 Q. So what was the ownership and control over ADT between
15:39:02 22 Efrain Torres and Francisco Colorado-Cessa?

15:39:24 23 A. That they were partners. They were both investing and they
15:39:28 24 were both earning.

15:39:29 25 Q. And who had invested the money in the business?

15:39:38 1 A. A part of it, Efrain.

15:39:43 2 THE COURT: Okay. Let's move on the another topic.

15:39:45 3 MS. FERNALD: I'm sorry, your Honor.

15:39:46 4 THE COURT: Let's move on to another topic.

15:39:49 5 MS. FERNALD: Yes, sir.

15:39:49 6 THE COURT: I think we've exhausted that.

15:39:52 7 Q. (BY MS. FERNALD) Can you tell us a little bit about the
15:39:54 8 horseracing industry for the Los Zetas cartel?

15:40:06 9 A. It's been a tradition that everybody have their horses, that
15:40:20 10 they bet on their horses, that they run races both public and
15:40:22 11 private, that it's a contest to see who's got the best horses and
15:40:28 12 to be able to bet money.

15:40:30 13 Q. And you had mentioned before that Efrain Torres had a hobby
15:40:35 14 with the horse races and the horse racing industry; is that
15:40:45 15 correct?

15:40:45 16 A. Yes.

15:40:48 17 Q. Did he ever rename a horse after his son?

15:40:56 18 A. Yes.

15:40:57 19 Q. And do you remember the horse's name?

15:41:02 20 A. Alexander, Alex.

15:41:06 21 Q. Can you show me Government's Exhibit 250E, please? Do you
15:41:14 22 recognize this individual?

15:41:17 23 A. Yes.

15:41:18 24 Q. Who do you recognize this individual to be?

15:41:26 25 A. I know him as the light-skinned guy Carlitos Villarin.

15:41:34 1 Q. And how is he involved with the horse races?

15:41:49 2 A. Well, there where he lived, he had a racetrack and he had
15:41:53 3 horses.

15:41:53 4 Q. Let's go back to Government's Exhibit 250U. Do you
15:42:09 5 recognize the man in this photograph?

15:42:11 6 A. Yes.

15:42:12 7 Q. And what is that man's name?

15:42:20 8 A. Jesus Enrique, "Mamito."

15:42:26 9 Q. And did he have a Z number?

15:42:30 10 A. Yes.

15:42:31 11 Q. What was his Z number?

15:42:38 12 A. I don't remember. We all called him "Mamito."

15:42:44 13 Q. If I told you Z-7, would that refresh your recollection?

15:42:53 14 A. Yes. Yeah.

15:42:57 15 Q. And during the period of time that you were with Efrain
15:43:03 16 Torres -- could we pull up Government's Exhibit No. 250X? Do you
15:43:14 17 recognize this man?

15:43:17 18 A. Yes.

15:43:18 19 Q. Who is this?

15:43:20 20 A. Lazcano, Heriberto Lazcano.

15:43:24 21 Q. And Lazcano-Lazcano, what was his role in the company?

15:43:34 22 A. He was the leader of the Zetas cartel.

15:43:38 23 Q. Did he have a Z number?

15:43:42 24 A. Yes.

15:43:42 25 Q. And what was that?

15:43:45 1 A. Do not remember.

15:43:46 2 Q. Is he still alive to your knowledge?

15:43:58 3 A. From what I heard, he had been killed.

15:44:04 4 Q. I want to go back to March the 3rd. We're getting close to
15:44:08 5 end of your testimony, but on March the 3rd of 2007, when Efrain
15:44:13 6 Torres was killed, did you attend the funeral?

15:44:26 7 A. Yes.

15:44:28 8 Q. And the day after he was killed, was a meeting called?

15:44:36 9 A. Yes.

15:44:37 10 Q. Who was the meeting called by?

15:44:41 11 A. Lazcano and Z-40.

15:44:46 12 Q. What were their positions in the company at that time?

15:44:56 13 A. Lazcano was the leader, "40" was second.

15:45:03 14 Q. And where was the meeting called?

15:45:10 15 A. In Tampico, Tamaulipas.

15:45:13 16 Q. What was the purpose of the meeting?

15:45:36 17 A. Gathered everybody together to do a -- to inform us of what
15:45:43 18 had happened, second, to do an accounting of all the accounts of
15:45:49 19 all -- of all of us that had worked with "14," the inventory of
15:45:54 20 the accounting of all the movements.

15:45:56 21 Q. So the purpose of the meeting was to find out what the
15:46:01 22 workers were doing under "14's" control or Efrain Torres'
15:46:11 23 control.

15:46:13 24 A. Yes.

15:46:13 25 Q. And who was the accountant for Efrain Torres?

15:46:19 1 A. I was.

15:46:20 2 Q. And at the time of this meeting, I have March the 4th of
15:46:25 3 2007. At the time of this meeting, what individual owed Efrain
15:46:30 4 Torres the most money?

15:46:39 5 A. Mr. Colorado.

15:46:40 6 Q. Was Francisco Colorado-Cessa present at that meeting?

15:46:47 7 A. No.

15:46:48 8 Q. How many people were present? How many of "Chispa's"
15:46:53 9 workers were present at that meeting?

15:47:02 10 A. There are about 30, 30-some of us. I don't remember
15:47:06 11 exactly.

15:47:06 12 Q. How long did the meeting last?

15:47:11 13 A. I don't remember. It was one that was, you know, pretty
15:47:20 14 long. Everything was explained to us.

15:47:22 15 Q. All right. And what was explained to you? What did the
15:47:25 16 leaders explain to you?

15:47:36 17 A. That if we could -- would still be continuing to work the
15:47:49 18 way we had been working in the same fashion, in a coordinated
15:47:53 19 fashion, and who was going to be in command.

15:47:58 20 Q. And was someone selected to be in command at that time?

15:48:04 21 A. No.

15:48:05 22 Q. And how did your accounting go with Lazcano and with Miguel
15:48:10 23 Trevino, the leaders of the company?

15:48:27 24 A. It was fine. It took us several days to check all the books
15:48:34 25 and to check everything out, but everything came out fine.

15:48:37 1 Q. All right. And were they looking for Francisco
15:48:41 2 Colorado-Cessa at that time?

15:48:43 3 A. Not just him, everyone that owed. Everybody.

15:48:51 4 Q. Did you have a meeting in McAllen with Francisco
15:48:55 5 Colorado-Cessa after this March 4th meeting?

15:49:00 6 MR. CHRIS FLOOD: Objection. Leading, your Honor.

15:49:06 7 THE COURT: Overruled. You may answer.

15:49:09 8 A. Yes.

15:49:10 9 Q. (BY MS. FERNALD) Can you tell the jury about the meeting
15:49:12 10 that you had with Francisco Colorado-Cessa in McAllen, Texas
15:49:18 11 shortly after this accounting meeting?

15:49:29 12 A. He was just asking how things were, who had ended up being
15:49:46 13 -- who was going to end up being in charge, and that he was at
15:49:49 14 the service of Lazcano or whoever ended up being in charge.

15:49:52 15 Q. Okay. And when you say "he," who are you referring to?

15:49:59 16 A. Mr. Colorado.

15:50:01 17 Q. So "he" meaning Francisco Colorado said that he was at whose
15:50:07 18 service?

15:50:09 19 THE COURT: That is leading.

15:50:13 20 Q. (BY MS. FERNALD) What did Mr. -- what did Mr. Francisco
15:50:19 21 Colorado-Cessa say in reference to Lazcano?

15:50:27 22 A. That he was there at his service for whatever he needed. He
15:50:41 23 was there to be able to work things out.

15:50:44 24 Q. Where did the meeting take place in McAllen?

15:50:53 25 A. There at the McAllen mall where they sell food.

15:51:00 1 Q. The same court?

15:51:02 2 A. Yes.

15:51:04 3 Q. After you had this meeting at the mall shortly after March
15:51:10 4 the 4th, did you receive a phone call from Miguel Trevino?

15:51:23 5 A. Yes.

15:51:25 6 Q. And what did he instruct you in regards to Francisco
15:51:31 7 Colorado-Cessa's debt?

15:51:43 8 A. That it had already been worked out, that I shouldn't be
15:51:46 9 looking for him anymore to try and get payment on the accounts,
15:51:51 10 that the account had been settled.

15:52:05 11 Q. And how did you keep the books and the records for Efrain
15:52:10 12 Torres? Did you continue to work for Miguel Trevino until you
15:52:13 13 were arrested in September of 2008?

15:52:27 14 A. On the computer.

15:52:28 15 Q. And specifically, did you use a computer or a flash drive?

15:52:41 16 A. I had it on a flash drive, but I used a computer to update
15:52:45 17 everything.

15:52:46 18 Q. When you were arrested in September of 2008, did you have
15:52:51 19 information regarding the company's financial information on that
15:52:57 20 flash drive?

15:53:06 21 A. Yes.

15:53:07 22 Q. And was that located at your home at 2806 Santa Laura in
15:53:13 23 Mission, Texas?

15:53:20 24 A. Yes.

15:53:21 25 Q. And do you know whether or not the FBI and DEA actually

15:53:26 1 seized that flash drive when they did the search warrant?

15:53:33 2 A. No. No. They didn't seize it. I don't know where it ended
15:53:45 3 up.

15:53:47 4 Q. Ma I approach the witness, your Honor?

15:53:54 5 THE COURT: Just a moment.

15:53:56 6 Q. (BY MS. FERNALD) I'm showing you what has been marked as
15:53:59 7 Government's Exhibit 420. Do you recognize this document and
15:54:02 8 have you reviewed it before?

15:54:19 9 A. Don't remember. Yes.

15:54:33 10 Q. What do you recognize this document to be?

15:54:35 11 A. What was confiscated at my house.

15:54:40 12 Q. And can you check through the list what was confiscated at
15:54:44 13 your house and tell me whether or not that flash drive is present
15:54:47 14 on that list?

15:54:57 15 A. No. It's not included.

15:54:59 16 Q. So they missed your flash drive, correct?

15:55:07 17 A. No.

15:55:09 18 Q. Move for the introduction of Government's Exhibit 4A.

15:55:12 19 THE COURT: Excuse me. No, they missed your flash
15:55:14 20 drive? Or yes, they missed your flash drive?

15:55:20 21 THE WITNESS: They didn't find it.

15:55:23 22 THE COURT: Okay. Now.

15:55:25 23 MS. FERNALD: Move for the introduction of 420 and he's
15:55:29 24 reviewing it.

15:55:30 25 THE COURT: All right.

15:55:34 1 MR. CHRIS FLOOD: I have no objection.

15:55:35 2 THE COURT: Without objection, it is received.

15:56:07 3 Q. (BY MS. FERNALD) Mr. Hinojosa, were you aware of any checks
15:56:10 4 that were written by Francisco Colorado-Cessa to Efrain Torres?

15:56:23 5 A. Just for the horse races and the payments for horses.

15:56:29 6 That's it. Because the rest of it was being owed. Supposedly,
15:56:39 7 he had been paid in checks. At least that's what I was told.

15:56:44 8 Q. Did you ever see those checks?

15:56:45 9 A. No.

15:56:46 10 Q. Do you know whether or not those checks actually exist?

15:56:56 11 A. Well, yeah, because they were for the payments of races.

15:57:02 12 Q. I'm talking about checks between Efrain Torres and Francisco
15:57:05 13 Colorado-Cessa.

15:57:13 14 A. No. Those accounts -- accounting, I don't know.

15:57:17 15 Q. Okay. Do you know what a narco corrido is?

15:57:23 16 A. Yes.

15:57:24 17 Q. What is that? Tell the jury.

15:57:42 18 A. It's a song that's dedicated to a person. It's a song, it's
15:57:46 19 the story about a person or what they do or who they are.

15:57:50 20 Q. And with the cartel, are these popular?

15:57:56 21 A. Yes.

15:57:57 22 Q. Did you have a narco corrido actually written for you?

15:58:03 23 A. Yes.

15:58:04 24 Q. And do other members of the cartel have narco corridos
15:58:08 25 written for them?

15:58:09 1 A. Yes.

15:58:14 2 Q. Do you know what a posada is?

15:58:18 3 A. Yes.

15:58:19 4 Q. Can you tell the jury what a posada is?

15:58:24 5 A. There in Mexico, those are parties that are held during the
15:58:39 6 Christmas season to spend time with friends or with coworkers.

15:58:45 7 It's a Christmastime celebration.

15:58:46 8 Q. And did the cartel participate in posadas?

15:58:52 9 A. Yes.

15:58:53 10 Q. And were bonuses given at posadas?

15:59:00 11 A. Yes.

15:59:01 12 Q. And did you actually give some of your workers vehicles at
15:59:05 13 some of those posadas?

15:59:10 14 A. Yes.

15:59:11 15 Q. At any time between 2004 and the time that you were arrested
15:59:23 16 in 2008, was this man, Francisco Colorado-Cessa, was he forced to
15:59:31 17 be friends with "Chispa"?

15:59:44 18 A. No. That I know of, no.

15:59:47 19 Q. What about with Miguel Trevino?

16:00:02 20 A. I never saw them together. I don't know what kind of
16:00:05 21 relationship they had, but he was there in Veracruz, "40" was in
16:00:11 22 Veracruz.

16:00:12 23 Q. Was he ever forced to do business with the leaders of the
16:00:16 24 cartel, Francisco Colorado-Cessa?

16:00:30 25 A. I couldn't tell you. Through 2008 with "14," no. With the

16:00:35 1 rest, I couldn't tell you.

16:00:37 2 Q. Were you forced?

16:00:38 3 A. No.

16:00:39 4 Q. Did you choose to do it?

16:00:42 5 A. Yes.

16:00:43 6 Q. Why did you choose to do it?

16:00:54 7 A. Well, because you earn money, you make money. You have
16:01:01 8 luxuries, luxurious things and power.

16:01:05 9 Q. What about protection?

16:01:10 10 A. That's included in the power, the protection.

16:01:13 11 Q. Your Honor, I have marked for demonstrative purposes my
16:01:17 12 notes that I have written as Government's Exhibit No. 421, and
16:01:22 13 would like to offer that to the Court for demonstrative purposes
16:01:25 14 only.

16:01:27 15 MR. CHRIS FLOOD: I have no objection, your Honor.

16:01:28 16 THE COURT: Without objection.

16:01:41 17 MS. FERNALD: Pass the witness.

16:01:43 18 THE COURT: Your witness, sir.

16:01:47 19 CROSS-EXAMINATION

16:01:47 20 BY MR. CHRIS FLOOD:

16:02:00 21 Q. Mr. Hinojosa, my name is Chris Flood. You and I have never
16:02:04 22 met before, correct?

16:02:09 23 A. No.

16:02:10 24 Q. But you have obviously met with Ms. Fernald, the prosecutor
16:02:18 25 that was just asking you questions, correct?

16:02:27 1 A. Yes.

16:02:28 2 Q. And how many times have you met with Ms. Fernald before

16:02:33 3 coming in to testify today?

16:02:39 4 A. Three or four times.

16:02:44 5 Q. Three or four times this year or three or four times in

16:02:47 6 total?

16:02:53 7 A. This year. This year, yeah.

16:03:00 8 Q. Okay. And before this year, have you ever met with Ms.

16:03:04 9 Fernald and discussed with her testifying?

16:03:16 10 A. Yes.

16:03:19 11 Q. And when was that?

16:03:28 12 A. More than two-and-a-half years ago when the other trial

16:03:32 13 happened.

16:03:33 14 Q. Okay. And how many times did you meet with her then?

16:03:46 15 A. I don't remember. Three times. I don't remember. Three

16:03:49 16 times.

16:03:51 17 Q. All right. Is Ms. Fernald the only prosecutor that you've

16:03:57 18 met with regarding your testifying?

16:04:08 19 A. For this case?

16:04:10 20 Q. For any case.

16:04:11 21 A. No.

16:04:12 22 Q. Okay. Tell the jury who Toni Trevino is.

16:04:24 23 A. That's a prosecutor that is in charge of my case in McAllen.

16:04:29 24 Q. In the Southern District of Texas?

16:04:32 25 A. Yes.

16:04:33 1 Q. And do you remember that you met with her on November 25th,
16:04:39 2 2008, when you decided to cooperate with the government and start
16:04:49 3 telling them about the crimes that you've committed?

16:05:08 4 A. I don't. I don't remember the date, but I do remember some
16:05:18 5 about that.

16:05:20 6 Q. Now, you have glasses and you do read English, right?

16:05:26 7 A. Just a little bit. Not much.

16:05:28 8 Q. All right. May I approach the witness, your Honor?

16:05:31 9 THE COURT: You may.

16:05:32 10 Q. (BY MR. CHRIS FLOOD) Have you ever seen that document
16:05:39 11 before?

16:05:55 12 A. Not that I remember, but I do remember that I -- I did sign
16:06:21 13 a lot of papers.

16:06:22 14 Q. All right. Is that your signature on that document?

16:06:27 15 A. Yes.

16:06:39 16 Q. Your Honor, we move to introduce Defendant's Exhibit 26.
16:06:42 17 I'll hand it to counsel for the government for them to --
16:06:46 18 objections, if they have any.

16:06:50 19 THE COURT: I beg your pardon?

16:06:56 20 MS. FERNALD: No objection, your Honor.

16:06:59 21 THE COURT: Without objection. How did you identify
16:07:04 22 it, 26?

16:07:05 23 MR. CHRIS FLOOD: Yes. Defendant's Exhibit 26.

16:07:07 24 THE COURT: Defendant's Exhibit 26 is admitted without
16:07:09 25 objection.

16:07:10 1 Q. (BY MR. CHRIS FLOOD) Now, if we go to page 2 of that
16:07:14 2 exhibit, that is signed by yourself, correct, on November 25,
16:07:21 3 2008? You just testified that was your signature, right?

16:07:28 4 A. Yes.

16:07:29 5 Q. And your counsel on the same day, Mr. Garcia?

16:07:37 6 A. Yes.

16:07:38 7 Q. And Toni Trevino, assistant United States attorney?

16:07:49 8 A. Yes.

16:07:50 9 Q. And it says on page 2, if your client understands and is in
16:07:55 10 agreement with the terms of this proffer, have your client sign
16:07:58 11 and date below and return to me no later than November 25, 2008.
16:08:03 12 Do you see that?

16:08:10 13 A. Yes, I see it.

16:08:27 14 Q. Okay. In that agreement, you're the client, right?

16:08:35 15 A. Yes.

16:08:36 16 Q. Let's go to page 1 of that agreement. The first page of
16:08:47 17 this exhibit is addressed to your attorney, Mr. Garcia, right?

16:08:57 18 A. Yes.

16:08:58 19 Q. And it says, during our previous conversation, you stated
16:09:02 20 that your client was interested in seeking a proffer agreement.
16:09:07 21 This office will consider pursuing this course to achieve an
16:09:12 22 appropriate and just resolution of this matter. Correct?

16:09:34 23 A. Yes.

16:09:41 24 Q. And to assure that no misunderstandings arise, please be
16:09:46 25 advised that such a proffer would be conducted only as follows.

16:09:51 1 And I'm not going to go through the whole thing but only as
16:09:56 2 follows. Do you see that?

16:10:11 3 A. Okay.

16:10:13 4 Q. Now, the letter then goes further and outlines the agreement
16:10:19 5 between you and Ms. Trevino through your lawyer that nothing you
16:10:24 6 say will be used against you but that you have to be honest with
16:10:28 7 the government when you talk to them. Wasn't that your
16:10:32 8 understanding of the agreement?

16:10:51 9 A. Yes.

16:10:54 10 MR. CHRIS FLOOD: Your Honor, could I retrieve that
16:10:56 11 exhibit that they were using on direct examination that was the
16:10:59 12 search warrant?

16:11:00 13 THE COURT: I suppose.

16:11:03 14 MR. CHRIS FLOOD: Thanks.

16:11:05 15 Q. (BY MR. CHRIS FLOOD) And that agreement, again, was signed
16:11:10 16 on November 25, 2008. Within 60 or 70 days from the search of
16:11:28 17 your residence that is depicted on Government's Exhibit 420,
16:11:35 18 which you do not have, do you see this was the inventory that was
16:11:54 19 introduced just a minute ago by Ms. Fernald of the search of your
16:11:59 20 residence? Do you remember seeing that exhibit?

16:12:13 21 A. Yes.

16:12:14 22 Q. All right. And this search took place on September 2, 2008,
16:12:20 23 correct?

16:12:23 24 A. Yes.

16:12:24 25 Q. And it's your testimony upon review of the inventory of that

16:12:28 1 search, that this flash drive that you've made reference to was
16:12:33 2 not found by the agent.

16:12:47 3 A. Yes.

16:12:50 4 Q. Thank you. So September, October, November, after your
16:13:05 5 signing of this proffer letter with the government, this
16:13:09 6 agreement that you had, did you meet with them immediately after
16:13:13 7 that?

16:13:29 8 A. I don't remember the date exactly, but I did meet with them.

16:13:32 9 Q. If I showed you a report done by Special Agent Raul Vargas
16:13:38 10 reflecting an interview between you and Toni Trevino, the
16:13:44 11 prosecutor, on November 25, the same date of that agreement,
16:13:49 12 would that refresh your memory if you met with them on that day?

16:14:11 13 A. I do remember meeting with him.

16:14:14 14 Q. Okay. I'm showing you -- well, take a look at that document
16:14:21 15 and see if it refreshes your memory on what day you met with Toni
16:14:26 16 Trevino and the agent.

16:14:39 17 A. I don't remember having seen this.

16:14:41 18 Q. Okay. But does that document refresh your memory about the
16:14:45 19 meeting that you had with Ms. Trevino, Special Agent Raul Vargas,
16:14:49 20 and others right after signing that proffer agreement that is
16:14:54 21 Defendant's Exhibit 26?

16:15:13 22 A. Yes.

16:15:14 23 Q. And did you, in fact, have that meeting?

16:15:26 24 A. I mean, I met with him several times. I don't remember each
16:15:30 25 one specifically.

16:15:33 1 Q. But if you met with him on November 25, do you know if they
16:15:38 2 went and conducted another search warrant at your residence to
16:15:42 3 find the flash drive that they missed the first time?

16:16:00 4 A. No. I don't know.

16:16:02 5 Q. You don't know if they did or you don't know if they found
16:16:05 6 it?

16:16:12 7 A. I don't know if they did it. I also don't know if they ever
16:16:15 8 found it because I don't.

16:16:18 9 Q. And if we had that flash drive, we would be able to check to
16:16:25 10 see of these entries that you say you made actually occurred,
16:16:31 11 right?

16:16:39 12 A. Yes, sir.

16:16:46 13 Q. After that proffer letter, you met with the agents again on
16:16:52 14 November 25th, December 4th of 2008, February 11th of 2009, March
16:17:02 15 16th of 2009, March 23rd and the 27th of 2009, April 4th, 6th,
16:17:11 16 and May 5th of 2009. Do you recall that?

16:17:21 17 A. I remember there were a lot of times. I do not remember the
16:17:43 18 dates. I remember there are a lot of times.

16:17:45 19 Q. Do you recall on those occasions that was, again, Assistant
16:17:52 20 United States Toni Trevino, not Ms. Fernald. Do you recall that
16:17:55 21 on those occasions, you talked to the agents and Ms. Trevino
16:18:01 22 about your dealings with Efrain Torres?

16:18:15 23 A. Yeah. They knew about everything. Yeah.

16:18:21 24 Q. Right. Do you remember telling the agents on those
16:18:27 25 occasions back in 2008 and 2009 that you were the accountant for

16:18:32 1 Efrain Torres?

16:18:40 2 A. Yes.

16:18:41 3 Q. And that after Efrain Torres was killed, there was a meeting
16:18:45 4 with Miguel Trevino like the one you described a little while
16:18:51 5 ago.

16:18:58 6 A. Yes.

16:18:58 7 Q. And do you remember telling the agents that all of the
16:19:02 8 people, the associates at the meeting had to disclose their
16:19:06 9 earnings, accounting logs, and illegal narcotics customers to
16:19:10 10 Miguel Trevino?

16:19:18 11 A. Yes.

16:19:29 12 Q. And by the way, at these meetings that I've described, it
16:19:32 13 wasn't just Toni Trevino, there was Agents Raul Vargas and David
16:19:37 14 Buckley of the FBI. Do you remember those two guys?

16:19:52 15 A. I remember Raul Vargas. I don't remember the other one.

16:19:55 16 Q. All right. What about Agent Katherine Gutierrez?

16:19:59 17 A. Yes.

16:20:00 18 Q. Bill Klaus. Remember Bill Klaus?

16:20:03 19 A. No.

16:20:05 20 Q. Okay. But you don't remember everybody that was at these
16:20:09 21 meetings that I've named, but you remember that Vargas was there
16:20:13 22 and you remember that Gutierrez was there.

16:20:24 23 A. Yes.

16:20:25 24 Q. And the agents appeared to be taking notes of what you were
16:20:29 25 saying.

16:20:34 1 A. Yes.

16:20:35 2 Q. In addition to talking about this meeting that took place
16:20:39 3 after Efrain Torres was killed, you also mentioned that Trevino
16:20:47 4 was going to be working with Lazcano, and they were going to
16:20:51 5 resume activities just had been done on Efrain Torres. Do you
16:20:56 6 recall that?

16:21:11 7 A. Yes.

16:21:13 8 Q. And in addition to Efrain Torres, you told the agents about
16:21:17 9 working in the Public Minister's Office, correct?

16:21:28 10 A. Yes.

16:21:28 11 Q. And you told them about an individual, a person by the name
16:21:34 12 of Guerra. Do you remember that? Raymundo Guerra?

16:21:39 13 A. Yes.

16:21:42 14 Q. And he was a corrupt sheriff that you had been working with
16:21:46 15 when you were in Miguel Aleman as a plaza boss, correct?

16:21:59 16 A. Yes.

16:22:00 17 Q. Now, how long would these meetings take generally, say, the
16:22:05 18 meeting on November 25th? Would they be long meetings?

16:22:18 19 A. An hour, two hours, I don't remember.

16:22:22 20 Q. Okay. But it was your understanding that you had to tell
16:22:27 21 them the whole truth at these meetings, correct?

16:22:34 22 A. Regarding everything that they asked me about. Yes.

16:22:38 23 Q. Right. And when you told them about your dealings with
16:22:42 24 Efrain Torres back in 2008 and 2009, you never mentioned anything
16:22:50 25 about ADT or Pancho Colorado investing money with Efrain Torres,

16:22:57 1 did you?

16:23:06 2 A. No. All they were asking about was drug things.

16:23:19 3 Q. Right. And you never mentioned anything about \$18 million
16:23:25 4 being given by Efrain Torres to Pancho Colorado in all nine of
16:23:29 5 those meetings that you had back in 2008 and 2009.

16:23:42 6 A. No.

16:23:43 7 Q. You never testified that you flew in Pancho Colorado's
16:23:47 8 airplane with Efrain Torres or that Pancho Colorado had attended
16:23:52 9 Efrain Torres' son's baptism, did you?

16:24:11 10 A. I wasn't asked. And regarding the plane, I've flown in a
16:24:20 11 lot of planes.

16:24:21 12 Q. Right. You never mentioned Pancho Colorado one time in all
16:24:26 13 nine of those meetings back in 2008, 2009 before he was charged
16:24:32 14 in this case, did you?

16:24:39 15 A. No.

16:24:48 16 Q. Now, even though you then entered into a plea agreement
16:24:57 17 after your proffer letter, the government told you that they
16:25:04 18 still wanted your cooperation; isn't that correct?

16:25:17 19 A. Yes.

16:25:24 20 Q. And they told you that if you were going to cooperate with
16:25:29 21 them, you couldn't lie to them and you couldn't commit any more
16:25:33 22 crimes, right?

16:25:42 23 A. Yes.

16:25:44 24 Q. I'm sorry?

16:25:45 25 A. Yes.

16:25:46 1 Q. Okay. And you were sentenced on the case that you had in
16:25:58 2 South Texas where Ms. Trevino was the prosecutor, were you not?

16:26:06 3 A. Yes.

16:26:10 4 Q. And prior to sentencing, the government filed a motion for
16:26:17 5 downward departure of your sentence to reflect the cooperation
16:26:23 6 you'd given, correct?

16:26:40 7 A. I don't remember that, but yeah. Yeah.

16:26:43 8 Q. All right. May I approach the witness, your Honor?

16:26:45 9 THE COURT: You may.

16:26:49 10 Q. (BY MR. CHRIS FLOOD) I've handed you what I've had marked as
16:26:57 11 Defendant's Exhibit 27. Have you ever seen that document?

16:27:09 12 A. Yes.

16:27:15 13 Q. Have you ever seen that document before?

16:27:26 14 A. I signed a lot of things. And since I don't understand much
16:27:30 15 English, all the attorney did was he would bring them to me and
16:27:33 16 say, sign this and I did.

16:27:35 17 Q. Do you remember earlier today when you testified that, when
16:27:41 18 I started cooperating in 2008, I wasn't entirely cooperative
16:27:45 19 because my brother and uncle and workers were in danger. Do you
16:27:49 20 remember testifying to that?

16:28:08 21 A. Yes.

16:28:08 22 Q. We'd move to admit Defendant's 27, your Honor.

16:28:22 23 THE COURT: Is there an objection?

16:28:23 24 MS. FERNALD: May I confer with counsel?

16:28:33 25 MR. CHRIS FLOOD: We may need a sidebar on this, your

16:28:37 1 Honor. I could take off the cover page, if necessary. May we
16:28:41 2 have a sidebar?

16:28:42 3 THE COURT: Certainly.

16:28:43 4 (At the bench, on the record.)

16:28:53 5 MS. FERNALD: This is the motion for downward
16:28:55 6 departure. My only concern -- first, they have an objection. I
16:28:57 7 believe this is under seal.

16:29:02 8 MR. CHRIS FLOOD: I think it's filed under seal, Judge.
16:29:03 9 But obviously it's not under seal. We've got it.

16:29:05 10 THE COURT: Well, true.

16:29:06 11 MS. FERNALD: But under the protective order, you have
16:29:08 12 it. Not under the court --

16:29:08 13 MR. CHRIS FLOOD: Even documents under the protective
16:29:12 14 order can be exhibits.

16:29:12 15 THE COURT: So why can't it be received? This jury can
16:29:15 16 look at it, but it will be put under seal.

16:29:19 17 MR. CHRIS FLOOD: That's fine.

16:29:20 18 THE COURT: On motion from the government afterwards.
16:29:21 19 Okay?

16:29:22 20 MS. FERNALD: That's fine with me, your Honor.

16:29:24 21 MR. CHRIS FLOOD: By the way, your Honor, I apologize
16:29:26 22 for the comment not being anything other than a repetition of my
16:29:30 23 brother --

16:29:31 24 MR. CHARLES FLOOD: I'm sorry, Judge. I was wholly to
16:29:32 25 blame for that.

16:29:50 1 THE COURT: All right. It's received under the
16:29:52 2 stipulation.

16:30:02 3 Q. (BY MR. CHRIS FLOOD) Mr. Hinojosa, this is the motion for
16:30:05 4 downward departure, which has been admitted into evidence, which
16:30:07 5 was filed by the -- Ms. Trevino's office before your sentencing
16:30:12 6 in your case. I just showed it to you. Do you see that?

16:30:20 7 MS. FERNALD: Your Honor, I'm sorry to object to all of
16:30:23 8 this. But the government continues to object because this is
16:30:27 9 under seal and this is being shown in an open courtroom.

16:30:30 10 THE COURT: So don't show it in the open courtroom,
16:30:34 11 only to the jury. Do we have the ability to just show it to the
16:30:39 12 jury? It's a matter that's under seal in another case, ladies
16:30:44 13 and gentlemen, so it's perfectly proper for you all to see it,
16:30:49 14 but it gives information that's under seal. So we can just show
16:30:56 15 it in the jury box. Raise it up, sure, and you can just -- oh,
16:31:08 16 will it still show?

16:31:53 17 Proceed. Okay.

16:32:34 18 MR. CHRIS FLOOD: Sorry for the delay, your Honor.

16:32:37 19 THE COURT: That's all right.

16:32:40 20 Q. (BY MR. CHRIS FLOOD) I want to draw your attention to Roman
16:33:00 21 numeral III on page 2 of that document. Do you see about the
16:33:17 22 middle of that paragraph where Ms. Trevino told the Court that
16:33:21 23 she filed this in court, as the government's debriefings began to
16:33:25 24 focus on Mascorro's criminal conduct, it became apparent that
16:33:29 25 Hinojosa was holding back on information pertaining to Mascorro.

16:34:01 1 MS. FERNALD: Before he answers.

16:34:21 2 Q. (BY MR. CHRIS FLOOD) But do you see how the prosecutor told
16:34:24 3 the judge that you weren't -- that you're holding back
16:34:27 4 information pertinent to Mascorro initially?

16:34:42 5 A. Yes.

16:34:43 6 Q. Okay. And even though your agreement would have been -- was
16:34:47 7 that you had to fully debrief, be fully honest, they gave you a
16:34:51 8 pass, for lack of a better word, for not fully debriefing
16:34:55 9 initially on Mascorro. Do you see that?

16:35:11 10 A. Yes.

16:35:13 11 Q. And then, if you turn to the next page under Roman numeral
16:35:19 12 IV, about the middle of that paragraph, you were brought in to
16:35:30 13 the U.S. Attorney's Office to debrief regarding an allegation
16:35:34 14 that you had received a cellphone in your cell. Do you recall
16:35:41 15 that?

16:35:54 16 A. Yes.

16:35:54 17 Q. And you lied to Toni Trevino and the agents about your
16:36:00 18 possession of a cellphone.

16:36:10 19 A. Yes.

16:36:11 20 Q. And, in fact, they had run a search of your cell later, and
16:36:18 21 they recovered the cellphones that were in your cell. Do you see
16:36:23 22 that?

16:36:30 23 A. Yes.

16:36:31 24 Q. Then you see where Assistant United States Trevino is
16:36:36 25 telling the Court that the memories of those phones contained

16:36:40 1 photographs of you in your cell?

16:36:55 2 A. Yes.

16:36:55 3 Q. So while you were cooperating with the government, you first
16:37:00 4 held back information on Mascorro. And then, when they asked you
16:37:03 5 if you had cellphones, you lied to them.

16:37:20 6 A. Yeah, because I got scared. When they asked me about the
16:37:32 7 phones, it -- I got scared, and so, I said no.

16:37:35 8 Q. Well, no. You give excuses a lot, Mr. Hinojosa. Earlier
16:37:39 9 you said, hey, I'm from Mexico, we bribe people --

16:37:41 10 MS. FERNALD: Your Honor --

16:37:42 11 THE COURT: Sorry.

16:37:43 12 MS. FERNALD: Objection, your Honor. Argumentative.

16:37:45 13 THE COURT: Basis?

16:37:46 14 MS. FERNALD: Argumentative and not a form of a
16:37:49 15 question.

16:37:49 16 THE COURT: It is. Why don't you just ask a question.

16:37:52 17 MR. CHRIS FLOOD: I will.

16:37:54 18 Q. (BY MR. CHRIS FLOOD) You got scared so you lied to them.

16:37:56 19 A. Yes.

16:37:56 20 Q. And it's scary to be in prison for a long time, too, isn't
16:38:02 21 it?

16:38:11 22 A. It depends on what you've done, you know.

16:38:13 23 Q. I'm saying it's scary to be in prison, isn't it?

16:38:22 24 A. Not scary. It's sad.

16:38:25 25 Q. Okay. And you didn't tell Assistant United States Toni

16:38:35 1 Trevino or the agents in your debriefings that it wasn't just
16:38:39 2 cellphones that you had, I guess, bribed someone to get, but you
16:38:45 3 had actually bribed the warden where you were housed, too,
16:38:49 4 correct?

16:39:04 5 A. Told them afterwards.

16:39:05 6 Q. Right. You didn't tell them before she filed that motion to
16:39:10 7 get you a lower sentence, did you?

16:39:13 8 A. Uh-huh. Yeah.

16:39:19 9 Q. And even though you had initially lied, you lied about
16:39:30 10 having the cellphones. The government requested that your
16:39:34 11 sentence be reduced by 15 percent, didn't she?

16:39:44 12 A. I don't know how much I supposedly got because I got 24
16:40:02 13 years.

16:40:02 14 Q. Right. But that's what the record reflects, that the
16:40:05 15 government, knowing you lied, went ahead and recommended that
16:40:09 16 your sentence be reduced by 15 percent.

16:40:21 17 A. Okay.

16:40:22 18 Q. And after that motion was presented to Judge Randy Crane,
16:40:29 19 the Judge in your case, he sentenced you to how much time?

16:40:46 20 A. 288 months.

16:40:49 21 Q. As to Count 1 and 240 months as to Count 12, correct?

16:40:58 22 A. Yes.

16:41:01 23 Q. And you weren't happy about that.

16:41:09 24 A. Well, no.

16:41:09 25 Q. You felt like that wasn't fair.

16:41:12 1 A. Yes.

16:41:13 2 Q. And so, you wrote Toni Trevino a letter?

16:41:23 3 A. Yes.

16:41:23 4 Q. If I may have one minute, your Honor.

16:41:28 5 THE COURT: You may.

16:42:11 6 Q. (BY MR. CHRIS FLOOD) That letter you wrote to Toni Trevino
16:42:21 7 was dated November 23rd, 2009; isn't that correct? Or do you
16:42:28 8 recall the date?

16:42:38 9 THE COURT: Let's stop. Let's get this done and then.

16:42:44 10 MR. CHRIS FLOOD: Thank you, your Honor.

16:42:58 11 COURT SECURITY OFFICER: Nobody saw that.

16:43:01 12 THE COURT: Okay. The question is, that letter that
16:43:04 13 you wrote to Toni Trevino was dated November 23, 2009; is that
16:43:11 14 correct?

16:43:13 15 THE WITNESS: Yes.

16:43:14 16 THE COURT: All right. Next question.

16:43:16 17 MR. CHRIS FLOOD: May I approach the witness, your
16:43:18 18 Honor?

16:43:18 19 THE COURT: You may. Keep your voice up, please.

16:43:32 20 Q. (BY MR. CHRIS FLOOD) I've handed you what's been marked as
16:43:35 21 Defendant's Exhibit No. 28. Is that the letter that you wrote to
16:43:39 22 Toni Trevino that I've just referenced?

16:43:52 23 A. Yes.

16:43:53 24 Q. All right. And if I can direct your attention to the last
16:43:57 25 page of that exhibit, you read both Spanish and English, correct?

16:44:13 1 A. A little.

16:44:14 2 Q. Does that appear to be an English translation of the letter
16:44:20 3 that you wrote?

16:44:33 4 A. Yes.

16:44:35 5 Q. Okay. Your Honor, I'd move for admission of Defendant's 28.

16:44:45 6 THE COURT: Is there an objection?

16:45:03 7 MS. FERNALD: No objection, your Honor.

16:45:05 8 THE COURT: Without objection, it is received.

16:45:09 9 MR. CHRIS FLOOD: Let me give this back to the witness,
16:45:12 10 your Honor.

16:45:21 11 Q. (BY MR. CHRIS FLOOD) So despite the fact that you hadn't
16:45:27 12 been honest with them and you got a reduced sentence, you wrote
16:45:31 13 the prosecutor shortly after your sentence saying -- can we have
16:45:41 14 it? Can you go to the translation?

16:46:39 15 Do you see -- that's your letter translated. You wrote
16:46:51 16 part of it in English and part of it in Spanish, right?

16:46:59 17 A. Yes.

16:47:00 18 Q. And you're writing to Assistant United States Attorney Toni
16:47:04 19 Trevino, correct?

16:47:08 20 A. Yes.

16:47:09 21 Q. That's the May '09 one that you have there. Let's just use
16:47:19 22 this one right here. I'm sorry. Apologize. Okay. There.

16:47:30 23 Says, I'm very sad for the sentence I was given. Do
16:47:35 24 you see that?

16:47:38 25 A. Yes.

16:47:39 1 Q. It was not what they had promised and I think it's unfair
16:47:44 2 because there were more people who deserve more than me, right?

16:47:54 3 A. Yes.

16:47:57 4 Q. Who's "they" and what did they promise you?

16:48:03 5 A. The former attorneys I had.

16:48:07 6 Q. Okay. Not Toni Trevino and the agents.

16:48:11 7 A. No.

16:48:11 8 Q. Okay. And you said, but what can I do about it now? Do you
16:48:18 9 see that?

16:48:19 10 A. Yes.

16:48:20 11 Q. Richard told me that you would still help me?

16:48:26 12 A. Yes.

16:48:27 13 Q. Richard was your lawyer.

16:48:31 14 A. A lying attorney, yes.

16:48:39 15 Q. I thought you were laughing, your Honor. I'm sorry. You
16:48:42 16 were yawning.

16:48:44 17 The "still help me" that you meant when you wrote that
16:48:50 18 letter to Toni Trevino was you can get me a lower sentence, can't
16:48:54 19 you, Tony?

16:49:06 20 A. That's what the attorney Richard that I used to have told
16:49:10 21 me.

16:49:11 22 Q. And then, you go further, you say, the reason for this
16:49:13 23 letter is because I want to know and perhaps you can give me a
16:49:16 24 phone number for someone to contact you all on someone you need
16:49:20 25 is over here in the U.S.C. -- U.S.A. like the fat guys, right?

16:49:26 1 A. Yes.

16:49:27 2 Q. You're essentially telling her, look, when there's someone
16:49:31 3 over here in the United States or charged in the United States,
16:49:33 4 you let me know, right?

16:49:40 5 A. Yes.

16:49:50 6 Q. Okay. Then you go further, someone's going to help me with
16:49:54 7 that to try and help me. Do you see that?

16:50:02 8 A. Yes.

16:50:03 9 Q. So that would mean like give you information, or give you
16:50:08 10 newspaper clippings, things like that, right?

16:50:14 11 A. Yes.

16:50:16 12 Q. I ask -- at the very end, I ask if it is in your power to
16:50:31 13 help me, please help me, right?

16:50:41 14 A. Yes.

16:50:45 15 Q. Now, that was not the only letter that you sent to Toni
16:50:50 16 Trevino, correct?

16:50:53 17 A. No.

16:50:56 18 MR. CHRIS FLOOD: Your Honor, I can go through these.
16:50:59 19 It might take me a while, or I may be able to pare it down over
16:51:03 20 the evening to only show one of these letters rather than go
16:51:06 21 through all three or four. It may save some time, believe it or
16:51:09 22 not.

16:51:09 23 THE COURT: It's called whispering in your ear.

16:51:12 24 Ladies and gentlemen, we're going to stop. 9:00
16:51:16 25 tomorrow, please. And remember, don't read, watch, listen, and

16:51:20 1 don't talk to even your nearest and dearest. See you in the
16:51:23 2 morning.

16:51:53 3 (Jury not present.)

16:51:55 4 THE COURT: Anything you need me for before I'm
16:51:58 5 through?

16:51:59 6 MR. GARDNER: Excuse me, your Honor?

16:52:00 7 THE COURT: Yes, sir.

16:52:00 8 MR. GARDNER: These are the DEA-6s from Dallas. There
16:52:06 9 are various --

16:52:07 10 THE COURT: Okay.

16:52:08 11 MR. GARDNER: For your review.

16:52:10 12 THE COURT: Are they discs?

16:52:11 13 MR. GARDNER: No, sir. They're pages.

16:52:17 14 THE COURT: That one you gave me was not -- this
16:52:20 15 doesn't have to be on the record.

16:52:20 16 (Proceedings adjourned.)

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